



# ERRATA.

Substitute the word "Act" for the word "Regulation" wherever it occurs.

Page	Section	Line	For	Read
3	1	7	123 (A)	123 A)
3	1	8	relaing	relating
3	1	14	Court	Court,
34	75 A	1	below	not below
46	5	4	with-	with
47	..	1	VI of 1934	VI of 1914
67	110	7	expressor	express or
69	119	4	prece ding	preceding
90	..	6	arnended	amended
95	11	2	found	found
124	..	1	T. C.	C. T.
125	15	3	Regluation	Regulation
140	2	3	1911, shall	1911, whether situated in a Govern- ment or an alienated village, shall.
140	2 A	..	..	[b] 2 A. 'Restoration' means re- storing to an efficient condition a tank, which, from neglect, accident or other cause has fallen into disuse or become impaired or less efficient than formerly.
141	4	..	..	[b](2-A) In the case of minor tanks situate in alienated villages, the cost of restoration shall, after deducting the raiyats' contribu- tion under sub-section (2), be borne by the Government and the superior holder in the propor- tion of the land revenue payable by the said superior holder to the Government and the total assessment of the village less the land revenue payable by the said superior holder to the Gov- ernment.
141	4 (3)	1	sub-section (2)	sub-section (2) or sub-section (2A).
141	4 (4)	2	sub-section (2)	sub-section (2) or sub-section (2A).
141	Foot note	..	..	[b] Inserted by Act VIII of 1938.
167	28	1	Promissary	promissory
172	50	5	nay	may
212	24	6	of	is
213	27 (2)	1	puprose	purpose
223	57	7	rispense	dispense
223	57	8	deduce	reduce
228	73	4	company's	company
233	80	marginal note.	embers	members
233	81 (5)	2	cush	such
247	101 (4)	4	fors shares hall	for shares shall
260	126	5	redeemable or	or redeemable



## II

Page	Section	Line	For	Read
267	141 (3)	4	hereby	hereby
272	153 (2)	10	contributories	contributories
282	186 (2)	4	in dependent	independent
283	190 (1)	3	in	to
288	(iv)	3	lation	Delete
295	228	3	Act of	Act or
298	236	5	register	register,
305	250	1	exist ing	existing
305	250	1	regis tered	registered
308	256 (3)	1	be	to be
324	..	..	27	20
331	50	4	b alance of sheets	balance sheets
335	..	..	76	77
352	24	7	o vote	to vote
357	..	35	reoare	are
357	..	37	pectively	respectively
372	67	Heading	Mortgage	Mortgagee
378	10	10	change	charge
387	Illustration	3	A,	A.
	(b)			
393	55 (c)	2	relevnt	relevant
401	65 para 2	1	in or	or in
403	72	3	the	he
403	72	15	of contract	of a contract
430	9 (2)	2	appeal	appeal
432	17 (4)	2	regard	regard
466	20	2	Incidence	Incidents

## REGULATION No. I OF 1912.

*(Received the assent of His Highness the Maharaja  
on the 8th day of March 1912.)*

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### **A Regulation for the protection of Judicial Officers.**

Whereas it is considered expedient to provide for the greater protection of Judges, Magistrates and others acting judicially ; His Highness the Maharaja is pleased to enact as follows :—

1. No Judge, Magistrate, Deputy Commissioner or other person acting judicially shall be liable to be sued in any Civil Court for any act done or ordered to be done by him in the discharge of his judicial duty whether or not within the limits of his jurisdiction :

Provided that he, at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of :

Non-liability  
to suit of  
officers acting  
judicially for  
official acts  
done in good  
faith and of  
officers exe-  
cuting war-  
rants and  
orders.

And no officer of any Court or other person, bound to execute the lawful warrants or orders of any such Judge, Magistrate, Deputy Commissioner or other person acting judicially shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he would be bound to execute, if within the jurisdiction of the person issuing the same.

2. Section 152 A of the Code of Civil Procedure, 1911, shall be repealed.

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## REGULATION No. II OF 1912.

*(Received the assent of His Highness the Maharaja  
on the 8th day of March 1912.)*

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**A Regulation further to amend the Mysore Court Fees  
Regulation, 1900.**

Preamble.

Whereas it is expedient further to amend the Mysore Court Fees Regulation, 1900 ; His Highness the Maharaja is pleased to enact as follows :—

Amendment  
of section 4,  
sub-head V.

1. The following shall be substituted for sub-clause (b) of clause A, under sub-head V of section 4, namely :—

“(b) Where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government or to the holder or holders of an alienated village to which the provisions of Chapters VIII and IX of the Land Revenue Code have been extended, or forms part of such estate and is recorded as aforesaid ;

and such revenue is settled, but not permanently,—  
five times the revenue so payable.”

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## REGULATION No. III OF 1912.

*(Received the assent of His Highness the Maharaja  
on the 8th day of March 1912.)*

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### **A Regulation to amend the Indian Evidence Act as in force in Mysore.**

Whereas it is expedient to amend the Indian Evidence Act as in force in Mysore with respect to the accounts and other documents relating to the affairs of the Palace and maintained by the Officer in charge of the Palace Establishments of His Highness the Maharaja of Mysore; His Highness the Maharaja is pleased to enact as follows:—

1. The following section shall be inserted after section 77 of the Indian Evidence Act (I of 1872,) as in force in Mysore, *viz.*—

“ 77 A. (1) The provisions of sections 76 and 77 shall be applicable to all accounts and other documents (except such as may be held to fall under the exception provided in section 123 (A) in the custody of the Officer in charge of the Palace Establishments, Mysore, relating to the affairs of the Palace Department.

(2) In giving copies of entries of any books of account, the Officer in charge of the Palace Establishments, Mysore, shall, if required by the Judge of a Court in relation to a suit or other proceeding pending before such Court add a further certificate that the copy contains a true extract of all the entries in the account books of the Palace, and that no other entries are to be found therein relevant to the matters in issue in such suit or proceeding.”

2. The following shall be inserted under section 123 of the said Act, *viz.*—

“ 123 A. (1) When any party to a suit or other judicial proceeding calls for the production of accounts or other documents in the custody of the Officer in charge of the Palace Establishments, Mysore, or applies to him for certified copies thereof under the provisions of section 76 of this Act, the said officer may, if he considers that it is inexpedient to produce such documents in Court or to give

certified copies thereof, by endorsement in writing, refuse to do so.

(2) Whenever the Officer in charge of the Palace Establishments, Mysore, has declined to produce or give certified copies of all the documents required by both parties to a suit or other proceeding, the other documents produced by him or certified copies of other documents of which he has furnished certified copies, shall not be admitted in evidence against any of the parties who objects to their being so admitted.

(3) The provisions of sub-section (1) of this section shall not apply to a suit or other proceeding to which the Officer in charge of the Palace Establishments, Mysore, is, in his official capacity, himself a party."

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## REGULATION No. IV OF 1912.

*(Received the assent of His Highness the Maharaja  
on the 7th day of March 1912.)*

### **A Regulation further to amend the Indian Contract Act as in force in Mysore.**

Whereas it is expedient further to amend the Indian Contract Act as in force in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Short title.  
extent, com-  
mencement,  
and applica-  
tion.

1. (1) This Regulation may be called “The Indian Contract Act Amendment Regulation, 1912.”

(2) It shall extend to the whole of Mysore.

(3) It shall come into force on the 1st day of April 1912.

(4) It shall apply to every contract in respect of which any suit is instituted or which is put in issue in any suit instituted after the commencement of this Regulation.

2. Section 16 of the Indian Contract Act, 1872, shall be repealed and the following substituted therefor, namely:—

Substitution  
of a new  
section for  
Section 16 of  
the Indian  
Contract Act,  
1872.  
“Undue  
influence”  
defined.

“16 (1) A contract is said to be induced by “undue influence” where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other.

(2) In particular and without prejudice to the generality of the foregoing principle, a person is deemed to be in a position to dominate the will of another—

(a) Where he holds a real or apparent authority over the other, or where he stands in a fiduciary relation to the other; or

(b) Where he makes a contract with a person whose mental capacity is temporarily or permanently affected by reason of age, illness, or mental or bodily distress.

(3) Where a person who is in a position to dominate the will of another, enters into a contract with him, and the transaction appears, on the face of it or on the

evidence adduced, to be unconscionable, the burden of proving that such contract was not induced by undue influence shall lie upon the person in a position to dominate the will of the other.

Nothing in this sub-section shall affect the provisions of section 111 of the Indian Evidence Act, 1872, as applied to Mysore.

### *Illustrations.*

(a) A having advanced money to his son B during his minority, upon B's coming of age obtains by misuse of parental influence, a bond from B for a greater amount than the sum due in respect of the advance. A employs undue influence.

(b) A, a man enfeebled by disease or age, is induced, by B's influence over him as his medical attendant, to agree to pay B an unreasonable sum for his professional services. B employs undue influence.

(c) A being in debt to B, the money-lender of his village, contracts a fresh loan on terms which appear to be unconscionable. It lies on B to prove that the contract was not induced by undue influence.

(d) A applies to a banker for a loan at a time when there is stringency in the money market. The banker declines to make the loan except at an unusually high rate of interest. A accepts the loan on these terms. This is a transaction in the ordinary course of business, and the contract is not induced by undue influence."

Amendment of section 19 and addition of a new section after that section.

Power to set aside contract induced by undue influence.

3. In section 19 of the said Act, the words "undue influence" shall be repealed and after the same section, the following new section shall be inserted, namely :—

"19 A. When consent to an agreement is caused by undue influence, the agreement is a contract voidable at the option of the party whose consent was so caused.

Any such contract may be set aside either absolutely or, if the party who was entitled to avoid it has received any benefit thereunder, upon such terms and conditions as to the Court may seem just.

### *Illustrations.*

(a) A's son has forged B's name to a promissory note. B, under threat of prosecuting A's son, obtains a bond from A for the amount of the forged note. If B sues on this bond, the Court may set the bond aside.

(b) A, a money-lender, advances Rs. 100 to B, an agriculturist and, by undue influence, induces B to execute a bond for Rs. 200 with interest at 6 per cent per month. The Court may set the bond aside, ordering B to repay the Rs. 100 with such interest as may seem just."

4. The word “ documents ” shall be substituted for the word “ assurances ” occurring in sub-section (1) of section 25 of the said Act.

Amendment of sub-section (1) of section 25 of the Indian Contract Act 1872.

5. The words “ one or more ” shall be substituted for the word “ one ” in para 1 of section 43 of the said Act.

Amendment of para 1 of section 43 of the Indian Contract Act, 1872.

6. The word “ composition ” shall be substituted for the word “ compensation ” occurring in the illustration (e) to section 63 of the said Act.

Amendment of illustration (e) to section 63 of the Indian Contract Act, 1872.

7. (1) Paragraph 1 of section 74 of the said Act shall be repealed and the following substituted therefor, namely :—

Amendment of section 74 of Indian Contract Act 1872.

“ 74. When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, or if the contract contains any other stipulation by way of penalty, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named or, as the case may be, the penalty stipulated for.

Compensation for breach of contract where penalty stipulated for.

*Explanation.*—A stipulation for increased interest from the date of default may be a stipulation by way of penalty.”

(2) The following illustrations shall be added after illustration (c) to the said section, namely :—

“ (d) A gives B a bond for the repayment of Rs. 1,000 with interest at 12 per cent at the end of six months, with a stipulation that, in case of default, interest shall be payable at the rate of 75 per cent from the date of default. This is a stipulation by way of penalty and B is only entitled to recover from A such compensation as the Court considers reasonable.

(e) A, who owes money to B, a money-lender, undertakes to repay him by delivering to him ten maunds of grain on a certain date and stipulates that, in the event of his not delivering the stipulated amount by the stipulated date, he shall be liable to deliver twenty maunds. This is a stipulation by way of penalty and B is only entitled to reasonable compensation in case of breach.

(f) A undertakes to repay B a loan of Rs. 1,000 by five equal monthly instalments with a stipulation that, in default of payment of any instalment, the whole shall become due. This stipulation is not by way of penalty, and the contract may be enforced according to its terms.



(g) A borrows Rs. 100 from B and gives him a bond for Rs. 200 payable by five yearly instalments of Rs. 40, with a stipulation that, in default of payment of any instalment, the whole shall become due. This is a stipulation by way of penalty."

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## REGULATION No. V OF 1912.

*(Received the assent of His Highness the Maharaja  
on the 25th day of June 1912.)*

### A Regulation further to amend the Mysore Land Revenue Code, Regulation No. IV of 1888.

Whereas it is expedient further to amend the Mysore Land Revenue Code, 1888; His Highness the Maharaja is pleased to enact as follows:—

1. The following new section shall be inserted under the heading "Recovery of superior holders' dues" and before section 97 as section 96 A, viz.—

" 96 A. Any rent or land revenue payable by an inferior holder to a superior holder together with interest at rates fixed by any rules framed by Government, shall be a first charge on the holding or any part thereof, provided that nothing in this section shall affect any right of the Government or any right or encumbrance created by the inferior holder with the consent of the superior holder in writing registered or before the date of this Regulation coming into force."

2. The words "within two years from the end of the revenue year or the year of tenancy" shall be substituted for the words "within the revenue year or within the year of tenancy" in the proviso to section 97.

3. The following article shall be inserted after article 119 of the first schedule to the Mysore Limitation Regulation, 1911, viz.—

" 119 A. By a superior holder to recover arrears of revenue from an inferior holder or to enforce a charge for rent or revenue on a holding."

The end of the revenue year for which the amount became due.

4. The words "except in cases provided for in article 119 A" shall be inserted at the end of column 1 of article 132 of the first schedule to the Mysore Limitation Regulation, 1911.

Preamble.

Insertion of a new section before Section 97.

Land revenue payable to a superior holder by an inferior holder to be a first charge on the holding.

Amendment of proviso to section 97.

Amendment of Schedule 1 to the Mysore Limitation Regulation, 1911.

## REGULATION No. I OF 1913.

*(Received the assent of His Highness the Maharaja on the 13th day of May 1913.)*

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**The Mysore Emigration Regulation.**

Preamble.	Whereas it is expedient to regulate the emigration of minors and other persons beyond the limits of Mysore for labour; His Highness the Maharaja is pleased to enact as follows:—
Title and extent.	1. This Regulation may be called “The Mysore Emigration Regulation, 1913.” It extends to the whole of Mysore.
	2. Definitions—
“Emigrate and Emigration”.	(a) “Emigrate and Emigration” denote the departure out of Mysore of a native of Mysore under an agreement to labour for hire in some country beyond the limits of Mysore.
“Emigrant.”	(b) “Emigrant” means any native of Mysore who emigrates or has emigrated, and includes any dependent of an emigrant.
“Dependent.”	(c) “Dependent” means any of the following persons accompanying an emigrant, namely,— any woman who has not entered into an agreement to emigrate; any child in whose name and on whose behalf any such agreement has not been entered into; and any aged or incapacitated relative or friend.
“Labour.”	(d) “Labour” means unskilled labour and does not include domestic personal service.
“Recruiter.”	(e) “Recruiter” includes a head recruiter or other person who collects or receives emigrants recruited by other persons.
Countries to which emigration is permitted.	3. Emigration to places outside India and Ceylon shall be lawful only to countries to which the Governor-General of India in Council has permitted emigration or to which he has not prohibited emigration from British India under any law in force in British India.
Recruitment under a license.	4. (1) In cases in which a license shall be required for recruiting in British India under any law for the time being in force there, no person shall, without such a

license granted by a Protector of Emigrants under section 16 of the Indian Emigration Act (XVII of 1908)—

(a) enter into or attempt to enter into any agreement with any person purporting to bind him to emigrate, or

(b) in consideration of any hire or reward, induce or attempt to induce any person to leave any place for the purpose of emigrating, or

(c) act or be employed in any other respect as a recruiter of emigrants.

(2) Every recruiter required to have such a license shall produce it when called upon to do so by any Magistrate or officer in charge of a Police Station.

5. Any District Magistrate may, after recording reasons therefor, endorse upon such a license that it should not be valid within the limits of his jurisdiction, and thereafter it shall be unlawful for any person to recruit coolies on the strength of such license.

Power of District Magistrates to terminate the license.

6. A recruiter shall give a true copy in the Kannada language of the statement of the terms of the agreement that he is authorised to offer to intending emigrants under the provisions of section 22 (1) of the Indian Emigration Act (XVII of 1908) to every person whom he invites to emigrate, and shall when called upon to do so produce the statement for the information of any Magistrate or officer in charge of a Police Station.

Recruiter to supply copy of the terms of agreement he is authorised to offer.

7. (1) Every recruiter shall provide sufficient and proper accommodation in a suitable place for such intending emigrant or emigrants as may be collected by him pending their removal out of Mysore.

Accommodation to be provided by recruiters.

(2) The place where the accommodation is provided shall have a board fixed in some conspicuous position specifying the purpose for which the place is used.

(3) Every District Magistrate or such other Magistrate or Police officer as may be authorised under rules framed by Government shall have, for the supervision and regulation of the places in which accommodation is provided under this section, the same powers as are conferred on a Protector of Emigrants in British India in respect of depots at the port of embarkation under the provisions of the Indian Emigration Act (XVII of 1908).

(4) All recruiters or other persons in charge of these places shall afford every Magistrate or other officer authorised under this section every facility for visiting and inspecting them.

Power of  
Government  
to prohibit  
emigration.

8. (a) The Government may, whenever it deems necessary, prohibit altogether emigration to any place outside Mysore, and may withdraw such prohibition.

(b) Government may also by notification in the Gazette prescribe that no recruitment shall take place to any place outside Mysore unless under licenses obtained in accordance with rules framed for the purpose, and thereupon the provisions of sections 4 and 5 shall, *mutatis mutandis*, apply to recruitment for emigration to the said place.

Minor emi-  
grants.

9. No person below the age of eighteen shall be taken out of Mysore as an emigrant except under a written agreement duly executed and attested in accordance with rules to be framed by Government, entered into with his legal guardian, or where there is no such guardian, under the written permission of the Magistrate of the District from which the minor person intends to emigrate.

Female emi-  
grants.

10. No married woman shall be taken out of Mysore as an emigrant without the consent of her husband (when he does not go with her) taken in writing and attested under rules framed by Government on this behalf, or without the written permission of a District Magistrate.

Unlawful  
recruitment.

11. (1) Whoever, except in conformity with the provisions of this Regulation or of any rules framed thereunder, or in contravention of any prohibition issued under section 8 of this Regulation,

(a) makes or attempts to make any agreement with any native of Mysore purporting to bind him to emigrate,

(b) in consideration of any hire or reward, induces or attempts to induce any native of Mysore to leave any place for the purpose of emigrating, or is employed as a recruiter of emigrants,

(c) in consideration of any hire or reward, receives into or detains in any place, or, being a recruiter, in any place other than a place in which accommodation has been provided in accordance with this Regulation or rules made under this Regulation, any person with a view to his being registered or despatched as an emigrant,

shall be punishable with a fine which may extend to Rs. 500.

(2) If a person other than a person authorised under section 4 of this Regulation commits an offence

under this section, any Police officer may arrest him without a warrant.

12. A recruiter who in contravention of Section 6 fails to give a copy of the statement therein referred to, to any person whom he invites to emigrate, or to produce the statement for the information of a Magistrate or Police officer, shall be punishable with fine which may extend to one hundred rupees.

Punishment for failing to give an emigrant a copy of agreement referred to in section 6 or produce the same before a Magistrate or Police officer.  
Fraudulently inducing emigration.

13. Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any native of Mysore to emigrate, or to enter into an agreement to emigrate, or to leave any place with a view to emigrating, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

14. The Government may prohibit any person who has been once convicted of an offence under this Regulation or the rules framed thereunder or for any offence connected with recruitment of labourers under any other law in force, from acting thereafter as a recruiter of emigrants or doing anything to aid or induce any person to emigrate.

Prohibition of certain persons from acting as recruiters.

15. The Government may, by notification in the official Gazette, make rules consistent with this Regulation,—

(a) to provide for the supervision and regulation of places of accommodation provided for emigrants ;

Power of Government to make rules.

(b) to prescribe forms of registers to be kept and returns and information to be supplied by recruiters under this Regulation ;

(c) to provide for the execution, registration and attestation of agreements entered into with or on behalf of persons intending to emigrate ;

(d) to regulate the discretion of the District Magistrate to give or withhold permission under sections 9 and 10 of the Regulation ; and

(e) generally to provide for the security, well-being and protection of emigrants.

16. The Government may, for any breach of such rules not falling within the provisions of this Regulation or any other law in force, provide for a punishment not exceeding a fine of one hundred rupees.

Punishment for breach of rules.

## REGULATION No. II OF 1913.

*(Received the assent of His Highness the Maharaja on the  
23rd day of January 1913.)*

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**A Regulation further to amend the Mysore Military  
Regulation, 1899.**

Preamble.

Whereas it is expedient to further amend the Mysore Military Regulation, II of 1899, His Highness the Maharaja is pleased to enact as follows:—

Amendment  
of paragraphs  
1 and 36.

1. For the words “Articles of war” occurring in paragraphs 1 and 36, the words “Army Act, 1911” shall be substituted.

Amendment  
of paragraph  
67.

2. In No. 6 under the sub-heading “Non-commissioned Officers, Sowars and Drivers” and in No. 4 under the sub-heading “Followers,” of paragraph 67, for the figure “50” the figure “30” shall be substituted.

Amendment  
of paragraph  
74.

3. In the first sentence of paragraph 74, for the figure “50” the figure “30” shall be substituted.

## REGULATION No. III OF 1913.

*(Received the assent of His Highness the Maharaja on the 11th day of June 1913.)*

**A Regulation to amend the law relating to Partition in Mysore.**

Whereas it is expedient to amend the law relating to Partition; His Highness the Maharaja is pleased to enact as follows:—

1. (1) This Regulation may be called “The Partition Regulation, 1913.”

Preamble.

Short title, extent and commencement.

(2) It extends to the whole of Mysore; and

Savings.

(3) It shall come into force at once. But nothing herein contained shall be deemed to affect any law providing for the partition of immovable property paying revenue to Government.

2. Whenever in any suit for partition in which, if instituted prior to the commencement of this Regulation, a decree for partition might have been made, it appears to the Court that, by reason of the nature of the property to which the suit relates, or of the number of the shareholders therein, or of any other special circumstance, a division of the property cannot reasonably or conveniently be made, and that a sale of the property and distribution of the proceeds would be more beneficial for all the shareholders, the Court may, if it thinks fit, on the request of any of such shareholders interested individually or collectively to the extent of one moiety or upwards, direct a sale of the property and a distribution of the proceeds.

Power to Court to order sale instead of division in partition suits.

3. (1) If, in any case in which the Court is requested under the last foregoing section to direct a sale, any other shareholder applies for leave to buy at a valuation the share or shares of the party or parties asking for a sale, the Court shall order a valuation of the share or shares in such manner as it may think fit and offer to sell the same to such shareholder at the price so ascertained, and may give all necessary and proper directions in that behalf.

Procedure when sharer undertakes to buy.



(2) If two or more shareholders severally apply for leave to buy as provided in sub-section (1), the Court shall order a sale of the share or shares to the shareholder who offers to pay the highest price above the valuation made by the Court.

(3) If no such shareholder is willing to buy such share or shares at the price so ascertained, the applicant or applicants shall be liable to pay all costs of or incident to the application or applications.

Partition suit  
by transferee  
of share in  
dwelling  
house.

4. (1) Where a share of a dwelling house belonging to an undivided family has been transferred to a person who is not a member of such family and such transferee sues for partition, the Court shall, if any member of the family being a shareholder shall undertake to buy the share of such transferee, make a valuation of such share in such manner as it thinks fit, and direct the sale of such share to such shareholder and may give all necessary and proper directions in that behalf.

(2) If in any case described in sub-section (1) two or more members of the family being such shareholders severally undertake to buy such share, the Court shall follow the procedure prescribed by sub-section (2) of the last foregoing section.

Representa-  
tion of parties  
under  
disability.

5. In any suit for partition, a request for sale may be made, or an undertaking, or application for leave, to buy may be given or made on behalf of any party under disability by any person authorised to act on behalf of such party in such suit, but the Court shall not be bound to comply with any such request, undertaking or application, unless it is of opinion that the sale or purchase will be for the benefit of the party under such disability.

Reserved bid-  
ding and bid-  
ding by  
shareholders.

6. (1) Every sale under section 2 shall be subject to a reserved bidding and the amount of such bidding shall be fixed by the Court in such manner as it may think fit and may be varied from time to time.

(2) On any such sale, any of the shareholders shall be at liberty to bid at the sale on such terms as to non-payment of deposit or as to setting off or accounting for the purchase money or any part thereof instead of paying the same as to the Court may seem reasonable.

(3) If two or more persons, of whom one is a shareholder in the property, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the shareholder.

7. Save as hereinbefore provided, when any property is directed to be sold under this Regulation, the procedure prescribed therefor by rules made by the High Court in this behalf from time to time shall, as far as practicable, be adopted. Until such rules are made, the procedure prescribed in the Code of Civil Procedure in respect of sales in execution of decrees shall be followed.

Procedure to be followed in case of sales.

8. Any order for sale made by the Court under section 2, 3 or 4 shall be deemed to be a decree within the meaning of section 2 of the Code of Civil Procedure.

Orders for sale to be deemed decrees.

9. In any suit for partition, the Court may, if it shall think fit, make a decree for a partition of part of the property to which the suit relates and a sale of the remainder under this Regulation.

Saving of power to order partly partition and partly sale.

10. This Regulation shall apply in suits instituted before the commencement thereof, in which no scheme for the partition of the property has been finally approved by the Court.

Application of Regulation to pending suits.

## REGULATION No. VII OF 1913.

*(Received the assent of His Highness the Maharaja on the 11th day of October 1913.)*

**A Regulation for the establishment of Village Courts in  
Mysore.**

Preamble.

Whereas it is expedient to provide for the establishment of Village Courts in Mysore; His Highness the Maharaja is pleased to enact as follows:—

CHAPTER I.

*Preliminary*

Title, commencement and local extent.

1. (1) This Regulation may be called “The Mysore Village Courts Regulation, 1913.”

(2) It shall come into force on the first day of January 1914.

(3) It shall extend to such village or villages in Mysore as may, from time to time, be notified by Government in the official Gazette.

Interpretation clause.

2. In this Regulation, unless there is something repugnant in the subject or context,—

“Village.”

“Village” means a local area recognized by Government from time to time as a village for purposes of collecting the land revenue and includes any area for which a Village Court may be established under this Regulation.

“District Judge” and “Munsiff.”

[a] “District Judge” means the District Judge of the District in which the Village Court is situate.

“Munsiff” means the Judge of the lowest grade appointed under the Mysore Civil Courts Regulation, I of 1883, to exercise the jurisdiction of a Civil Court over the locality in which the Village Court is situate.” [a]

“Deputy Commissioner.”

“Deputy Commissioner” shall mean the Deputy Commissioner of the District in which the Village Court is situate.

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[a-a] These definitions were substituted by Regulation No. III of 1917.

## CHAPTER II.

*Establishment and constitution of Village Courts.*

3. The Government may, from time to time, by notification published in the official Gazette,—

Establishment of Village Courts.

- (1) establish a Village Court for any village or specified area ;
- (2) group two or more villages and establish a Village Court for them ;
- (3) constitute divisions in any village and establish a separate Village Court for each of such divisions.

A Village Court established under this Regulation shall be held before a Village Munsiff appointed, or a Bench of more than one Judge constituted, as hereinafter provided.

4. Village Munsiffs shall be appointed by the Deputy Commissioner of the District subject to such rules as the Government may, from time to time, prescribe ; provided that no person not residing within the village shall be eligible for that office.

Appointment of Village Munsiffs.

5. The Deputy Commissioner of the District may suspend or remove a Village Munsiff for incapacity, neglect of duty, misconduct, or other just and sufficient cause, and shall do so, on a requisition made by the District Judge for like cause appearing in the judicial proceedings of a Village Munsiff.

Suspension or removal of Village Munsiff.

From every order suspending or removing a Village Munsiff, an appeal may be preferred within three months to the Revenue Commissioner if the order was passed by the Deputy Commissioner without a requisition from the District Judge, or to the High Court, if passed upon such requisition. The decision of the Revenue Commissioner or the High Court, as the case may be, on all such appeals shall be final.

Appeals from the above orders to whom lie.

6. (1) For every village in respect of which a Village Court is constituted, and subject to any rules which the Government may make on this behalf, the Deputy Commissioner shall prepare and maintain a list of persons residing in the village and qualified to sit as members of a Bench for the trial of suits brought under this Regulation. Such list shall also be hung up in the Court-house of the Village Munsiff.

Provisions concerning Benches.

List of persons qualified to serve as members of a Bench.

Either party to a suit may claim a trial by Bench.

(2) In any suit which may be instituted before a Village Court under this Regulation, the plaintiff in his plaint or the defendant in his answer may claim that the suit shall, instead of being tried by the Village Munsiff, be tried by a Bench of three Judges, and nominate as a member of such Bench any person named in the list mentioned in clause (1).

(3) When the plaintiff has nominated such a person in his plaint, the defendant shall, by the summons, be requested to nominate one also. When the defendant has demanded a Bench and nominated such a person, the plaintiff shall be required to nominate one also. When any person nominated to serve on a Bench declines or is unable to act, the party who nominated him shall be required to make a fresh nomination.

If a requisition under this clause has not been complied with within two clear days after it is made, the Village Munsiff shall himself select from the list a person to serve on the Bench on behalf of the party so making default.

Provided that the person nominated under this section shall not be the servant, dependent, relative or tenant of the party on whose behalf he is nominated, and shall not be personally interested in the result of the suit.

Member of Bench to be summoned by Village Munsiff.  
Procedure.

(4) The Village Munsiff shall summon the two persons nominated or selected as aforesaid to sit together with himself for the trial of the suit.

(5) The Village Munsiff shall be the President of such Bench and shall regulate the procedure and issue all summonses, notices and the like in his own name, but the decree shall run in the name of all the three members of the Bench. If the members of the Bench cannot agree, the opinion of the majority shall prevail.

Liability to serve on Bench.

(6) No person summoned under this section to serve on a Bench shall be bound to sit for more than three days in a month; provided that every such person shall be bound to attend the trial of any case which has been commenced before him until its completion.

Penalty for refusing or omitting to serve.

(7) Whoever, being duly summoned under this section to serve on a Bench, declines or omits to do so, without reasonable excuse, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rs. 20.

Register of suits filed, and record of proceedings held before Village Courts.

7. The Village Munsiff shall keep a Register of suits filed in the Village Court and shall write the proceedings of the Court, and may, if necessary, employ any person in the village to assist him in keeping the register and in writing the proceedings.

8. Every Village Court shall use a seal with the name of the Court inscribed in Kannada characters and shall use it for stamping summonses, decrees and copies of documents issued by it. Seal.

9. It shall be the duty of the village servant usually employed in carrying messages to serve all summonses, notices and orders issued under this Regulation and to act under the orders of the Village Munsiff in seizing, delivering and selling movable properties attached under this Regulation. Service of Summonses, etc.

10. The Deputy Commissioner of the District may, with the previous sanction of Government, appoint any other person to perform the duties prescribed by sections 7 and 9, respectively. Power of Deputy Commissioner to appoint persons to perform duties mentioned in sections 7 and 9.

### CHAPTER III.

#### *Jurisdiction, Res Judicata and Limitation.*

11. The following are the suits which shall be cognizable by Village Courts, namely:— Cognizance of suits by Village Courts.

Claim based on contract for money due, or claims for movable property, or for the value of such property when the debt or demand does not exceed in amount or value the sum of rupees forty, [a] whether on balance of account or otherwise.

Provided that no action shall be brought in any such Court— Proviso.

(1) on a balance of partnership account unless the balance shall have been struck by the parties or their agents ;

(2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will ;

(3) for the rent for land unless such rent is due upon a written contract signed by the defendant ;

(4) by or against public officers in their official capacity ;

(5) by and against minors or persons of unsound mind.

12. With the written consent of both parties executed before the Court, a Village Court may hear and determine suits of the nature described in section 11, the amount or value of which shall not exceed Rs. 200. Jurisdiction with consent.

[a] Substituted for "twenty" by Regulation XI of 1928.

Exclusive jurisdiction of Village Courts in cases cognizable by such Courts. Proviso.

13. No suit cognizable by the Village Court under this Regulation shall be entertained, heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Village Court.

Provided that all such cases pending in any Court at the time this Regulation comes into force shall be heard and determined by such Court; and decrees passed in suits which shall not have been satisfied prior to such time, shall be executed by such Courts.

Court in which suits to be instituted.

14. Subject to the provisions contained in section 15, every suit brought under this Regulation shall be instituted in the Village Court within the local limits of whose jurisdiction all the defendants at the time of the commencement of the suit reside or carry on business or personally work for gain.

Suits in which the Village Munsiff is personally interested. *Res judicata.*

15. No Village Munsiff shall try any suit to which he is a party, or in which he is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

16. No Village Court shall try any suit brought on a cause of action which has been heard and determined by a Court of competent jurisdiction in a former suit, between the same parties, or those under whom they claim.

Suit to include whole claim.

17. Every suit instituted in a Village Court shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of such Court.

Relinquishment of part of claim.

If a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall be precluded from bringing a fresh suit for, or in respect of, the portion so omitted or relinquished.

Incidental determination of matters not cognizable by Village Court.

18. If in the decision of a suit cognizable by a Village Court under sections 11 and 14, it becomes necessary to decide incidentally any matter in dispute between the parties to the suit concerning title to immovable property or the legal character of either of them, or of those under whom they claim, or the existence of any contract or obligation, which, if it had been the immediate subject matter of the suit, would not be cognizable under this Regulation by a Village Court, it shall be competent to the Village Court to decide such question of title, legal character, contract or obligation as far as may be necessary for the determination of such suit, but such decision shall not be evidence of such title, legal character, contract or

obligation in any other action, though between the same parties or their representatives.

19. The provisions of the Mysore Limitation Regulation shall apply to suits and applications under this Regulation. Limitation.

Provided that no suit or application shall be entertained by a Village Court after the expiration of three years from the time when the right to sue or make the application first accrued. Proviso.

20. The Munsiff may, on the application of any of the parties, withdraw, for just and sufficient cause, any suit from a Village Court and try the suit himself, as if it had been instituted in his Court, or transfer it for trial to any other Village Court within the local limits of his jurisdiction. Transfer of suits.

Provided that any party applying to have a suit withdrawn from a Village Court and tried by the Munsiff shall, before any such order of transfer is made, pay the amount of the fees payable under the Mysore Court Fees Regulation, 1900, in respect thereof.

#### CHAPTER IV.

##### *Of the Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on Parties, Adjournment and Consequences of Non-appearance.*

21. Every suit under this Regulation shall be instituted by presenting a plaint to the Village Munsiff together with as many copies thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided together with the copy of the summons. Suit to be commenced by plaint.

22. The plaint shall be written in Kannada and signed by the plaintiff or in his absence by an agent duly authorised by him, and it shall contain the following particulars,— Particulars to be contained in plaint.

(a) the name, description and residence of the plaintiff and defendant ;

(b) a concise statement of the cause of action and when it arose ;

(c) the relief prayed for and the total amount or value of the claim.

23. No agent except a relative or servant empowered by a written instrument shall be allowed to appear on Appearance in person or by agent.



behalf of any party to a suit in a Village Court ; provided that in all cases, a Village Court shall be competent to order the personal appearance of any party.

Registry of  
plaint and  
issue of sum-  
mons.

24. When the plaint has been duly presented, the Village Munsiff shall cause it to be registered and shall, by a summons in writing, require the defendant to appear and answer the claim on a specified day.

The summons shall be accompanied by a copy of the plaint and shall require the defendant to bring his witnesses, if any, on the date fixed for hearing, the plaintiff being likewise directed to appear on that date with his witnesses.

The summons shall be served on the defendant personally and a copy thereof delivered to him.

Mode of  
service when  
defendant  
evades service

25. If the Village Munsiff is satisfied that the defendant is evading service of the summons, the Village Munsiff may order that it be served upon, and a copy thereof delivered to, an adult male member of the family of the defendant residing with him, or that a copy thereof be affixed upon some conspicuous part of the house in which he generally resides and another copy to the Court-house of the Village Munsiff.

Mode of  
service when  
defendant is  
beyond local  
jurisdiction  
of Court.

26. Whenever it may be necessary to serve the summons upon the defendant beyond the local jurisdiction of the Village Court, it shall be forwarded to the Munsiff, who shall cause it to be served as if it had been a summons issued by himself and shall then return it to the Village Court together with a report of such service. Such report shall be *prima facie* evidence of the facts stated therein.

Procedure if  
defendant  
does not  
appear.

27. If a defendant does not appear in person or by agent on the day fixed, and it is proved that the summons was duly served at least two clear days before the date of hearing, the Village Court may proceed *ex-parte*.

If it is not proved that the summons was duly served, the Village Munsiff shall issue a fresh summons.

Process to be  
served at  
expense of  
party issuing.

28. Every summons served under this Regulation, otherwise than by the village servant, shall be served at the expense of the party on whose behalf it is issued and the amount of fee leviable for such service shall be fixed by Government from time to time and shall be levied by the Village Munsiff in such manner and subject to such rules as may be prescribed in that behalf by Government.

29. If, on the day fixed for the defendant to appear—

(1) neither party appears, or

(2) the plaintiff does not appear and the defendant appears and does not admit the claim, or,

(3) the summons has not been served owing to the plaintiff's default and the defendant does not appear, the suit shall be dismissed unless the Village Court, for good and sufficient cause, otherwise directs.

Procedure where plaintiff does not appear and defendant does not admit claim or where summons is not served through plaintiff's default.

30. If the plaintiff does not appear but the defendant appears and admits the claim wholly or in part, the Village Court shall pass judgment against the defendant in accordance with such admission, and where part only of the claim is admitted, shall dismiss the suit so far as it relates to the remainder.

Procedure where plaintiff does not appear and defendant admits claim.

31. (1) Whenever a suit is dismissed under clause (1) or clause (3) of section 29, the plaintiff may bring a fresh suit, and if within the time allowed by the law of limitation, the plaintiff satisfies the Village Court that he was prevented by any sufficient cause from appearing, the Court shall set aside the dismissal and shall appoint a day for proceeding with the suit.

Setting aside order under section 29 on cause shown.

(2) When a suit is dismissed under sub-section (2) of section 29 or partially dismissed under section 30, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action, but he may within the time allowed by the law of limitation apply for an order to set aside the dismissal and if he satisfies the Court that he was prevented from any sufficient cause from appearing, the Court shall make an order setting aside the dismissal and shall appoint a day for proceeding with the suit.

Setting aside order under sections 29 (2) and 30.

32. Any defendant against whom a decree has been passed *ex-parte* may, within the time allowed by the law of limitation, apply to the Village Court to set it aside; and if satisfied that the summons or notice was not duly served or that the defendant was prevented by any sufficient cause from appearing, the Court shall set aside the decree and shall appoint a day for proceeding with the suit.

Setting aside *ex-parte* decree against defendant.

33. No dismissal or decree shall be set aside on any application under section 31 or section 32 unless notice has been served on the opposite party.

No decree to be set aside without notice to opposite party.

## CHAPTER V.

*Of the Hearing, Withdrawal or Compromise of Suits, and of the Summoning and Examination of Witnesses.*

Procedure on  
appearance  
of both  
parties.

**34.** When the defendant appears, the Court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim, or if the suit is compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the Court shall pass a decree in accordance therewith. If the defendant does not admit the claim, he shall be required to state his objections either orally or in writing, and the Court may, if it thinks fit, adjourn the case to enable him to file a written statement.

Withdrawal  
of suit

**35.** If the plaintiff wishes to withdraw the suit he shall signify the same in writing to the Court which shall strike the suit off the file and no fresh suit shall be brought on the same cause of action.

When suit  
may be  
settled by  
oath.

**36.** If either party is willing to let the suit be settled by the oath of the other, and such other party assents and takes the oath, the Court shall give judgment according to such oath.

Set-off.

**37.** The defendant may set-off any amount legally due to him by the plaintiff for which he could bring a suit in a Village Court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

Witnesses not  
present to be  
summoned.

**38.** When the defendant's statement has been made, the Court shall proceed to examine the truth of the claim, and shall summon the witnesses cited by either party who are not present.

Summons to  
witnesses how  
served.

**39.** Any witness residing within the jurisdiction of the Village Court may be summoned verbally or in writing. Any witness residing within five miles beyond the Court's jurisdiction may be summoned in writing, and such summons shall be served through the Village Munsiff within whose jurisdiction he resides, or if for such place there is no Village Court, through the patel of the village in which the witness resides. If any witness resides more than five miles beyond the jurisdiction, the Court may call on the parties to frame written interrogatories and shall forward such interrogatories with a letter to the Village Munsiff or if there is no Village Court for such place, to the Amildar or Deputy Amildar within whose

Interro-  
gatories.

jurisdiction the witness resides, and such Village Munsiff or Amildar or Deputy Amildar shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the Court in which the suit is pending.

40. A summons may direct the party summoned either to appear and give evidence or to produce or cause the production of a document.

Summons to appear and give evidence or produce document.

41. Witnesses summoned by a Village Court to give evidence or to produce a document shall, except for reasonable cause, be bound so to attend and give evidence and produce or cause the production of the document summoned.

Liability of witnesses to attend and give evidence or produce documents.

42. Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, persons exempted from personal appearance in Court, and any person who, by reason of sickness or bodily infirmity, cannot attend without serious inconvenience, shall not be summoned ; but when the evidence of any such person is necessary, the Village Court shall examine such person at his or her residence.

Exemption of certain persons from personal appearance.

43. Witnesses shall be examined in open Court on oath or affirmation, but it shall not be necessary for a Village Court to take down depositions of witnesses in writing.

Examination of witnesses.

44. If it appears likely that the parties will settle the matter amicably, or for any other sufficient cause, the Village Court may adjourn the hearing to a day to be fixed in the presence of the parties or in cases in which the defendant does not appear, in the presence of the plaintiff. If, on such day, the parties or any of them fail to appear, the Village Court may proceed to dispose of the suit in one of the modes prescribed in that behalf by sections 29 and 30, or make such other order as it thinks fit.

Adjournment in view to amicable settlement or for other cause.

## CHAPTER VI.

### *Of the Decree and its Execution.*

45. When the parties or their agents have been heard, and the evidence on both sides considered, the Village Court shall pass such decree as may seem just, equitable and according to good conscience.

On conclusion of hearing, Court to pass decree.

Contents of  
decree.

**46.** The decree shall contain the number of the suit, the names of the parties, the particulars of the claim, the names of the witnesses examined, the titles of the exhibits read, the decision thereon, and the reasons for such decision. It shall specify the sum of money adjudged, the movable property to be delivered, the sum to be paid in default of delivery, and the amount of costs to be paid and by what parties and in what proportions such costs shall be paid.

The decree shall be dated on the day on which it is passed, and signed by the Village Munsiff. When the suit has been heard by a Bench, the decree shall be signed by the members of such Bench concurring therewith. Each party shall be entitled to receive a copy of the decree on application.

Decree may  
award interest  
or order  
payment by  
instalments.

**47.** In suits for money, the Village Court may decree interest on the sum decreed not exceeding 12 per cent per annum from date of suit till date of payment.

When a Village Court decrees the payment of a sum of money, it may direct that it be paid by instalments, with or without interest at the above rate.

Court by  
which decree  
may be  
executed.

**48.** The decree shall be executed by the Village Court which passed it or by a Village Court or Munsiff to whom it is sent for execution under the provisions hereinafter contained.

Decree for  
specific  
movable  
how executed

**49.** If the decree is for any specific movable, it may be enforced by the seizure of the property, and its delivery to the decree-holder. If the seizure of the property is not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative.

Payment of  
money under  
a decree or  
other adjust-  
ment to be  
made or  
recorded in  
the presence  
of the Village  
Munsiff.

**50.** All money payable under a decree passed by a Village Court shall be paid to the decree-holder or his agent specially authorized in writing, in the presence of the Village Munsiff whose duty it is to execute the decree; but if the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing, and signed by him or his agent in the presence of, and attested by, such Village Munsiff.

Such payment or adjustment shall be endorsed by the Village Munsiff on the decree, and recorded in the register of suits mentioned in section 7.

No payment under a decree, and no adjustment of a decree in whole or in part, shall be recognised, unless it has been made or recorded in the manner prescribed by this section or in the Court of the Munsiff.

51. Except where the decree is executed by a Munsiff, no judgment-debtor shall be arrested and no immovable property attached in execution of a decree of a Village Court.

Judgment-debtor not to be arrested nor immovable property attached.

52. On the application of the decree-holder, the Village Court shall attach any movable property within its jurisdiction belonging to the judgment-debtor, pointed out by the decree-holder, to the value of the sum payable under the decree: provided that the following properties shall not be liable to such attachment, *viz.* :—

Attachment of movable property.

(a) the necessary wearing apparel, cooking vessels, beds, and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman ;

(b) tools of artizans and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may in the opinion of the Court, be necessary to enable him to earn his livelihood as such ;

(c) books of account ;

(d) stipends and gratuities allowed to pensioners of the Government or payable out of any service family pension fund, notified in the Official Gazette by Government in this behalf, and political pensions ;

(e) the salary due to a public officer or to any servant of a Railway Company or local authority ;

(f) the pay and allowances of persons to whom the Indian Army Act, 1911, applies and of those belonging to the Mysore Military Forces ;

(g) the wages of labourers and domestic servants whether payable in money or in kind ;

(h) the arms, horse, clothes, equipments, regimental accoutrements and necessities of the members of the Mysore Military Forces ;

(i) where the decree relates to a debt due or contracted by an officer who has insured his life under the rules in force relating to the Mysore State Life Insurance, any bonus payable or paid thereunder to such officer or in the event of his death to his nominee or other person or, persons entitled to such bonus under the said rules ;

(j) any amount payable by the Military Department to the members of the Mysore Military Forces out of a retiring fund.

*Explanation I.*—The expression “Mysore Military Forces” occurring in this section shall have the meaning given to it in the Code of Civil Procedure, 1911.

*Explanation II.*—The particulars mentioned in clauses (d), (e), (f), (g) and (j) are exempt from attachment or sale whether before or after they are actually payable.

Attachment  
when prop-  
erty  
is in posses-  
sion of the  
judgment  
debtor.

53. If the property is in the possession of the judgment-debtor, it shall be attached by actual seizure and the Village Munsiff shall provide for its safe custody. It may be left in the custody of the judgment-debtor upon sufficient security being given in writing for its production when required. On default, the decree may be executed against the surety to the value of the property not produced.

Attachment  
when such  
property is  
not in the  
possession of  
the judgment  
debtor.

54. If the property is not in the possession of the judgment-debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment-debtor.

Debts how  
attached.

55. Debts and moneys due to the judgment-debtor shall be attached by a written order prohibiting the judgment-debtor from recovering the debt or receiving the sum of money, and the debtor from making payment thereof, until the further order of the Village Court. Nothing in this section shall be held to authorize a Village Court to attach or sell a debt charged on immovable property.

Private  
alienation of  
property  
after attach-  
ment to be  
void.

56. When an attachment has been made by actual seizure, or by a written order, any private alienation of the property attached, whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment-debtor, during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Investigation  
of claims to  
attached  
property.

57. If any claim is preferred to property attached in execution of a decree, the Village Court shall investigate the claim, and if it appears that the judgment-debtor has no saleable interest therein, such property shall be released from attachment.

Sale of  
attached  
property.

58. As soon as possible after attachment, the Village Court shall fix a day not less than fifteen days from the date of attachment for the sale of the property attached, and shall cause a written proclamation of the intended sale to be fixed outside the Court, and such sale shall be further proclaimed by beat of drum previous thereto.

Provided that (1) with the consent in writing of the judgment-debtor, or (2) when the property seized is subject to speedy and natural decay, or (3) when the expense of keeping it in custody may exceed its value, the Court may, after giving due notice by beat of drum, sell the attached property at any time within fifteen days from the date of attachment. In such case, the Court shall hold the sale proceeds subject to the provisions hereinafter made for payment of moneys attached in execution of decrees. Proviso.

59. On the day fixed for the sale, the property shall be put up for sale by public auction in the presence of the Village Munsiff and sold to the highest bidder. The price shall be paid without delay and in default, the property shall again be put to sale. Procedure in sale.

On payment of the purchase money, the Court shall grant a receipt for the same, and the sale shall become absolute.

Any loss on resale shall, at the instance of either the decree-holder or judgment-debtor, be recoverable from the defaulter as if a decree had been passed against him for the same.

60. Any sale advertised under this Regulation may, at the discretion of the Court, be adjourned to a specified day, public notice thereof being given in the manner prescribed by section 58. Powers to adjourn sale.

61. No Village Munsiff or other officer having any duty to perform in connection with any sale under this Regulation shall, either directly or indirectly, bid for or acquire any property sold at such sale. Village Munsiff and other officers not to bid for or buy property sold.

62. Every sale of property under this Regulation shall be stopped if, before the lot is knocked down, the amount due under the decree and the cost attending the sale are tendered to the Village Munsiff. Stoppage of sale on tender of debt and costs.

63. Out of the moneys realized in execution, the cost of execution shall first be defrayed and then the amount due to the decree-holder. Any surplus which may remain shall be paid to the judgment-debtor. Division of proceeds of sale.

64. When the property sold is one of which actual seizure has been made, the property shall be delivered to the purchaser. Property actually seized to be delivered to purchaser.

65. When the property sold is in the possession of any person other than the judgment-debtor, or is a debt due by any person to the judgment-debtor, delivery thereof to the purchaser shall be made by a written notice to Delivery of property to purchaser in other cases.



such person, prohibiting him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser.

Transfer of  
decree for  
execution to  
Munsiff.

66. On the application of the decree-holder, a Village Court which passed a decree may, if the decree cannot be fully executed by itself, transfer it for execution to the Munsiff who may execute the same as if it were a decree passed by himself, or may transfer for execution to the Court of any other village in which the defendant is represented to have movable property. Such Court shall proceed as if the decree was passed by itself.

Munsiff may  
withdraw  
execution of  
any decree.

67. It shall be competent to the Munsiff to withdraw for just and sufficient cause the execution of any decree from any Village Court and to execute it himself, as if it were a decree passed by himself.

## CHAPTER VII.

### *Miscellaneous.*

If on death of  
party to suit  
application is  
made, legal  
representa-  
tive of  
deceased may  
be entered on  
record.

68. If a plaintiff or a defendant dies before decree is passed in the suit, the name of his legal representative may be entered in his place on the record on the application of the opposite party or of such legal representative, but the legal representative of a deceased defendant shall not be answerable for any decree that may be passed beyond the value of the assets derived from him and not duly accounted for.

If no appli-  
cation made,  
suit to be  
dismissed.

69. If no such application is made within sixty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed, and no fresh suit shall be allowed to be brought on the same cause of action.

If more than  
one plaintiff  
or defendant,  
suit to  
proceed at  
instance of or  
against  
survivor.  
If decree-  
holder dies,  
his legal re-  
presentative  
may be  
substituted.

70. If there be more plaintiffs or defendants than one, and any of them dies and his representative is not joined as aforesaid, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs or against the surviving defendant or defendants.

71. If a decree-holder dies before the decree has been fully executed, his legal representative may apply to the Village Court to substitute his name as the decree-holder in the place of the deceased, and if the Court is satisfied after giving notice to the judgment-debtor that the applicant is the legal representative of the deceased,

it shall substitute his name on the record as the decree-holder.

**72.** If a judgment-debtor dies before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor to the extent of the assets derived from him and not duly accounted for.

If judgment-debtor dies, decree may be executed against his legal representative.

**73.** The Munsiff may, on a petition being presented within sixty days from the date of any decree or order of a Village Court, by any party deeming himself aggrieved by such decree or order, set aside such decree or order, on the ground—

Revision by Munsiffs of proceedings of Village Courts.

of corruption, gross partiality, or misconduct of the Village Court; or

of its having exercised a jurisdiction not vested in it by law, or

of having otherwise acted illegally or with material irregularity; or

that the decree or order is clearly unjust or contrary to law;

and may pass such other decree or order as he thinks fit; provided that no decree or order of a Village Court shall be set aside without notice to the opposite party.

Pending disposal of any such petition, the Munsiff may stay execution of the decree or order.

A petition under this section may be entertained after sixty days by the Munsiff if he is satisfied with the cause shown for the delay.

Except as provided in this section, every decree and order of a Village Court shall be final.

**74.** Whenever, under section 73, the Munsiff sets aside a decree or order, he may report the case to the District Judge, and shall report every case in which he sets aside a decree or order on the ground of corruption, gross partiality or misconduct.

Munsiff may and in certain cases shall, report to District Judge.

**75.** The High Court may, from time to time, prescribe forms for use in Village Courts and the returns which they shall be bound to submit.

Power of High Court to prescribe forms; powers of District Judge, Deputy Commissioner and Munsiff to inspect records.

[a] **75.** A (1) The District Judge or the Deputy Commissioner or the Munsiff may, at any time, call for and inspect the registers and records of Village Courts.

[b] (2) It shall be competent to the Deputy Commissioner to authorise generally or specially any Revenue Officer

[a] Formed into a new section by section 1 of Regulation IX of 1920.

[b] Added by Section 2 of Regulation IX of 1920.

below the rank of an Amildar to inspect the registers and records of Village Courts in his district.

[c] 76. The Court fee leviable in the case of suits filed in Village Courts will be determined from time to time by the Government, but in no case it shall exceed half the fee chargeable under the Court fees Regulation.

[d] CHAPTER VIII.

*Power to make Rules.*

Power to  
make rules.

77. (1) Government may make rules to carry out the purposes and objects of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for and regulate—

- (a) The appointment of Village Munsiffs and members of a Bench under Sections 4 and 6.
- (b) The grant of copies of decrees and other records.
- (c) The levy and disposal of fees for the service of process, execution of decrees, and grant of copies.

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[c] Substituted for the original by Regulation VI of 1923.

[d] Added by Section 3 of Regulation IX of 1920.

## REGULATION No. VIII OF 1913.

*(Received the assent of His Highness the Maharaja  
on the 23rd day of October 1913.)*

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**A Regulation to further amend the Mysore Excise Regulation 1901.**

Whereas it is expedient to further amend the Mysore Excise Regulation, 1901; His Highness the Maharaja is pleased to enact as follows:—

1. This Regulation shall be called “The Mysore Excise Regulation Amendment Regulation, 1913.”

2. The words “or a person in the employ of such holder” shall be inserted after the word “Regulation” occurring before clause (a) of Sections 56 and 57 of the Mysore Excise Regulation, V of 1901.

Preamble.

Short title.

Amendment  
of Sections 56  
and 57 of  
Regulation,  
V of 1901.

## REGULATION No. II OF 1914.

*(Received the assent of His Highness the Maharaja on the  
21st day of February 1914.)*

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**A Regulation further to amend the Mysore Military Regulation, II of 1899.**

Preamble.

Whereas it is expedient further to amend the Mysore Military Regulation, II of 1899, His Highness the Maharaja is pleased to enact as follows:—

Amendment  
of Section 38.

After the word “Government” at the end of the first sentence in paragraph 38 of the Regulation, the words “or of such officer specially authorised in this behalf by Government” shall be added.

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# REGULATION No. IV OF 1914.

*(Received the assent of His Highness the Maharaja  
on the 19th day of May 1914.)*

## **A Regulation further to amend the Mysore Court Fees Regulation, 1900.**

Whereas it is expedient further to amend the Mysore Court Fees Regulation, 1900, His Highness the Maharaja is pleased to enact as follows :—

1. The words “ or refund in value for ” shall be inserted after the words “ the renewal of ” in sub-section (c) of Section 35.

Preamble.

Amendment  
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# The Probate and Administration Regulation.

(Regulation No. VI of 1914.)

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## REGULATION No. VI OF 1914.

*(Received the assent of His Highness the Maharaja  
on the 22nd day of May 1914.)*

**A Regulation to provide for the grant of Probates of Wills  
and Letters of Administration to the Estates of certain  
deceased persons.**

Whereas it is expedient to provide for the grant of probates of wills and letters of administration to the estates of deceased persons in cases to which the Indian Succession Act, 1865, as applied to Mysore by Government of India Notification, Foreign Department, No. 203, Judicial, dated 23rd July 1868, does not apply; His Highness the Maharaja is pleased to enact as follows:—

Preamble.

## CHAPTER I.

## PRELIMINARY.

1. This Regulation may be called “The Probate and Administration Regulation, 1914.”

Short title.

It applies to the whole of Mysore.

Local extent.

And it shall come into force on the first day of July 1914.

Commence-  
ment.

2. Chapters II to XIII, both inclusive, of this Regulation shall apply in the case of every Hindu, Muhammadan, Buddhist and person exempted under section 332 of the Indian Succession Act, 1865, as applied to Mysore, dying before, on or after the said first day of July 1914.

Personal  
application.

Provided that nothing herein contained shall be deemed to render invalid any transfer of property duly made before that day:

Provided also that no Court shall receive applications for probate or letters of administration until the Government has, by a notification in the official Gazette, authorized it so to do.

3. In this Regulation, unless there be something repugnant in the subject or context,—

Interpreta-  
tion clause.

"minor" "minority"	"minor" means any person who has not completed his age of eighteen years; and "minority" means the status of any such person:
"will"	"will" means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death:
"codicil"	"codicil" means an instrument made in relation to a will, and explaining, altering or adding to its dispositions. It is considered as forming an additional part of the will:
"specific legacy."	"specific legacy" means a legacy of specified property:
"demonstrative legacy."	"demonstrative legacy" means a legacy directed to be paid out of specified property:
"probate."	"probate" means the copy of a will certified under the seal of a Court of competent jurisdiction, with a grant of administration to the estate of the testator:
"executor."	"executor" means a person to whom the execution of the last will of a deceased person is, by the testator's appointment, confided and
"administrator."	"administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor.

## CHAPTER II.

### OF GRANT OF PROBATE AND LETTERS OF ADMINISTRATION.

Character and property of executor or administrator as such.

4. The executor or administrator, as the case may be, of a deceased person, is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

But nothing herein contained shall vest in an executor or administrator any property of a deceased person which would otherwise have passed by survivorship to some other person.

Administration with copy annexed of authenticated copy of will proved abroad.

5. When a will has been proved and deposited in a Court of competent jurisdiction situated beyond the limits of Mysore and a properly authenticated copy of the will is produced, letters of administration may be granted with a copy of such copy annexed.

Probate only to appointed executor.

6. Probate can be granted only to an executor appointed by the will.

Appointment, express or implied.

7. The appointment may be express or by necessary implication.

*Illustrations.*

(a) A wills that C be his executor if B will not. B is appointed executor by implication.

(b) A gives a legacy to B and several legacies to other persons among the rest to his daughter-in-law, C, and adds, "but should the within-named C be not living, I do constitute and appoint B my whole and sole-executrix." C is appointed executrix by implication.

(c) A appoints several persons executors of his will and codicils, and his nephew residuary legatee, and in another codicil are these words:—"I appoint my nephew my residuary legatee to discharge all lawful demands against my will and codicils, signed of different dates." The nephew is appointed an executor by implication.

8. Probate cannot be granted to any person who is a minor or is of unsound mind.

Persons to whom probate cannot be granted.

9. When several executors are appointed, probate may be granted to them all simultaneously or at different times.

Grant of probate to several executors simultaneously or at different times.

*Illustration.*

A is an executor of B's will by express appointment, and C an executor of it by implication. Probate may be granted to A and C at the same time, or to A first and then to C, or to C first, then to A.

10. If a codicil be discovered after the grant of probate, a separate probate of that codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the will.

Separate probate of codicil discovered after grant of probate.

If different executors are appointed by the codicil, the probate of the will must be revoked, and a new probate granted of the will and the codicil together.

Procedure when different executors appointed by codicil.

11. When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

Accrual of representation to surviving executor.

12. Probate of a will when granted establishes the will from the death of the testator, and renders valid all intermediate acts of the executor as such.

Effect of probate.

13. Letters of administration cannot be granted to any person who is a minor or is of unsound mind.

To whom administration may not be granted.

14. Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

Effect of letters of administration.



Acts not validated by administration.

Grant of administration where executor has not renounced.

Exception.

Form and effect of renunciation of executorship.

Procedure where executor renounces or fails to accept within time limited.

Grant of administration to universal or residuary legatee.

Right to administration of representative of deceased residuary legatee.

Grant of administration where no executor, nor residuary legatee, nor representative of such legatee.

15. Letters of administration do not render valid any intermediate acts of the administrator tending to the diminution or damage of the intestate's estate.

16. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued calling upon the executor to accept or renounce his executorship ;

except that, when one or more of several executors has or have proved a will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

17. The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made, shall preclude him from ever thereafter applying for probate of the will appointing him executor.

18. If the executor renounces, or fails to accept, the executorship within the time limited for the acceptance or refusal thereof, the will may be proved and letters of administration with a copy of the will annexed may be granted to the person who would be entitled to administration in case of intestacy.

19. When the deceased has made a will, but has not appointed an executor, or

when he has appointed an executor who is legally incapable or refuses to act, or has died, before the testator or before he has proved the will, or

when the executor dies after having proved the will, but before he has administered all the estate of the deceased,

an universal or residuary legatee may be admitted to prove the will, and letters of administration with the will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

20. When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the will annexed as such residuary legatee.

21. When there is no executor and no residuary legatee, or representative of a residuary legatee or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any

other legatee having a beneficial interest, or a creditor, may be admitted to prove the will, and letters of administration may be granted to him or them accordingly.

22. Letters of administration with the will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned, calling on the next-of-kin to accept or refuse letters of administration.

Citation  
before grant  
of administra-  
tion to  
legatee other  
than universa  
or  
residuary.

23. When the deceased has died intestate, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate of an intestate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate.

To whom  
administra-  
tion may be  
granted.

When several such persons apply for administration, it shall be in the discretion of the Court to grant it to any one or more of them.

When no such person applies, it may be granted to a creditor of the deceased.

### CHAPTER III.

#### OF LIMITED GRANTS.

##### (a) *Grants limited in Duration.*

24. When the will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it be produced.

Probate of  
copy or draft  
of lost will.

25. When the will has been lost or destroyed, and no copy has been made nor the draft preserved, probate may be granted of its contents, if they can be established by evidence.

Probate of  
contents of  
lost or  
destroyed  
will.

26. When the will is in the possession of a person, residing out of Mysore, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the will or an authenticated copy of it be produced.

Probate of  
copy where  
original  
exists.

Administra-  
tion until  
will produced.

27. Where no will of the deceased is forthcoming, but there is reason to believe that there is a will in existence, letters of administration may be granted, limited until the will or an authenticated copy of it be produced.

*(b) Grants for the Use and Benefit of others having Right.*

Administra-  
tion with will  
annexed to  
agent of  
absent  
executor.

28. When any executor is absent from Mysore and there is no executor within Mysore willing to act, letters of administration with the will annexed may be granted to the agent of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

Administra-  
tion with will  
annexed to  
agent of  
absent person  
who, if  
present,  
would be  
entitled to  
administer.

29. When any person to whom, if present, letters of administration with the will annexed might be granted, is absent from Mysore, letters of administration with the will annexed may be granted to his agent, limited as above mentioned.

Administra-  
tion to agent  
of absent per-  
son entitled to  
administer  
in case of  
intestacy.

30. When a person entitled to administration in case of intestacy is absent from Mysore, and no person equally entitled is willing to act, letters of administration may be granted to the agent of the absent person, limited as before mentioned.

Administra-  
tion during  
minority of  
sole executor  
or residuary  
legatee.

31. When a minor is sole executor or sole residuary legatee, letters of administration with the will annexed may be granted to the legal guardian of such minor, or to such other person as the Court shall think fit, until the minor has attained his majority, at which period, and not before, probate of the will shall be granted to him.

Administra-  
tion during  
minority of  
several execu-  
tors or  
residuary  
legatees.

32. When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant shall be limited until one of them has attained his majority.

Administra-  
tion for use  
and benefit of  
minor or  
lunatic.

33. If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates applicable in the case of the deceased, be a minor or lunatic, letters of administration with or without the will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or, if there be no such person, to such other person as the Court

thinks fit to appoint, for the use and benefit of the minor or lunatic, until he attains majority or becomes of sound mind, as the case may be.

34. Pending any suit touching the validity of the will of a deceased person, or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing such estate; and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

Administra-  
tion *pendente-  
lite*.

(c) *For Special Purposes.*

35. If an executor be appointed for any limited purpose specified in the will, the probate shall be limited to that purpose, and if he should appoint an agent to take administration on his behalf, the letters of administration with the will annexed shall accordingly be limited.

Probate limi-  
ted to purpose  
specified in  
will.

36. If an executor appointed generally give an authority to an attorney to prove a will on his behalf, and the authority is limited to a particular purpose, the letters of administration with the will annexed shall be limited accordingly.

Administra-  
tion with will  
annexed  
limited to  
particular  
purpose.

37. Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the beneficiary, or to some other person on his behalf.

Administra-  
tion limited  
to trust-  
property.

38. When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other suit which may be commenced in the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said suit, and until a final decree shall be made therein and carried into complete execution.

Administra-  
tion limited  
to suit.

39. If, at the expiration of twelve months from the date of any probate or letters of administration, the

Administra-  
tion limited  
to purpose of

becoming  
party to suit  
to be brought  
against  
executor or  
administra-  
tor.

executor or administrator to whom the same has or have been granted is absent from Mysore, the Court that has granted the probate or letters of administration may grant to any person whom it thinks fit letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

Administra-  
tion limited  
to collection  
and preserva-  
tion of  
deceased's  
property.

40. In any case in which it appears necessary for preserving the property of a deceased person, the Court within whose district any of the property is situate may grant, to any person whom such Court thinks fit, letters of administration limited to the collection and preservation of the property of the deceased, and giving discharges for debts due to his estate, subject to the directions of the Court.

Appointment,  
as administra-  
tor, of person  
other than  
one who  
under  
ordinary  
circumstances  
would be  
entitled to  
administra-  
tion.

41. When a person has died intestate, or leaving a will of which there is no executor willing and competent to act or where the executor is, at the time of the death of such person, resident out of Mysore, and it appears to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof other than the person who under ordinary circumstances would be entitled to a grant of administration, the Judge may, in his discretion, having regard to consanguinity, amount of interest, the safety of the estate and probability that it will be properly administered, appoint such person as he thinks fit to be administrator ;

and in every such case, letters of administration may be limited or not as the Judge thinks fit.

(d) *Grants with Exception.*

Probate or  
administra-  
tion with will  
annexed  
subject to  
exception.  
Administra-  
tion with  
exception.

42. Whenever the nature of the case requires that an exception be made, probate of a will or letters of administration with the will annexed shall be granted subject to such exception.

43. Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

(e) *Grants of the Rest.*

Probate or  
administra-  
tion of rest.

44. Whenever a grant with exception, of probate, or letters of administration with or without the will annexed

has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

(f) *Grants of Effects Unadministered.*

45. If the executor to whom probate has been granted has died leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

Grant of effects unadministered.

46. In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made.

Rules as to grants of effects unadministered.

47. When a limited grant has expired by effluxion of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

Administration when limited grant expired and still some part of estate unadministered.

## CHAPTER IV.

### ALTERATION AND REVOCATION OF GRANTS.

48. Errors in names and descriptions or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court and the grant of probate or letters of administration may be altered and amended accordingly.

What errors may be rectified by Court.

49. If, after the grant of letters of administration with the will annexed, a codicil be discovered, it may be added to the grant on due proof and identification, and the grant altered and amended accordingly.

Procedure where codicil discovered after grant of administration with will annexed.

50. The grant of probate or letters of administration may be revoked or annulled for just cause.

Revocation or annulment for just cause. "Just cause."

*Explanation.*—"Just cause" is--

1st, that the proceedings to obtain the grant were defective in substance ;

2nd, that the grant was obtained fraudulently by making a false suggestion, or by concealing from the Court something material to the case ;

3rd, that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently;

4th, that the grant has become useless and inoperative through circumstances;

5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VII of this Regulation, or has exhibited under that Chapter an inventory or account which is untrue in a material respect.

### *Illustrations.*

(a) The Court by which the grant was made had no jurisdiction.

(b) The grant was made without citing parties who ought to have been cited.

(c) The will of which probate was obtained was forged or revoked.

(d) A obtained letters of administration to the estate of B, as his widow, but it has since transpired that she was never married to him.

(e) A has taken administration to the estate of B, as if he had died intestate, but a will has since been discovered.

(f) Since probate was granted, a later will has been discovered.

(g) Since probate was granted, a codicil has been discovered which revokes or adds to the appointment of executors under the will.

(h) The person to whom probate was, or letters of administration were, granted, has subsequently become of unsound mind.

## CHAPTER V.

### OF THE PRACTICE IN GRANTING AND REVOKING PROBATES AND LETTERS OF ADMINISTRATION.

Jurisdiction of District Judge in granting and revoking probates, etc.

51. The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in all cases within his district.

Power to appoint Delegate of District Judge to deal with non-contentious cases.

52. The Government may, from time to time, appoint such judicial officers within any district as it thinks fit to act for the District Judge as Delegates to grant probate and letters of administration in non-contentious cases, within such local limits as it may from time to time prescribe.

Persons so appointed shall be called "District Delegates."

53. The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any civil suit or proceeding pending in his Court.

District Judge's powers as to grant of probate and administration.

54. The District Judge may order any person to produce and bring into Court any paper or writing being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person ;

District Judge may order person to produce testamentary papers.

and if it be not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct him to attend for the purpose of being examined respecting the same,

and he shall be bound to answer such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit, and had made such default,

and the costs of the proceeding shall be in the discretion of the Judge.

55. The proceedings of the Court of the District Judge, in relation to the granting of probate and letters of administration, shall, except as hereinafter otherwise provided, be regulated, so far as the circumstances of the case will admit, by the Code of Civil Procedure.

Proceedings of District Judge's Court in relation to probate and administration.

56. Probate of the will or letters of administration to the estate of a deceased person may be granted by the District Judge under the seal of his Court, if it appears by a petition, verified as hereinafter mentioned, of the person applying for the same that the testator or intestate, as the case may be, had at the time of his decease a fixed place of abode, or any property, movable or immovable, within the jurisdiction of the Judge.

When probate or administration may be granted by District Judge.

57. When the application is made to the Judge of the district in which the deceased had no fixed abode at the time of his death, the Judge may in his discretion refuse the application, if in his judgment it could be disposed of more justly or conveniently in another district,

Disposal of application made to Judge of district in which deceased had no fixed abode.



or where the application is for letters of administration, grant them absolutely, or limited to the property within his own jurisdiction.

Probate and letters of administration may be granted by Delegate.

58. Probate and letters of administration may, upon applications for that purpose to any District Delegate, be granted by him in any case in which there is no contention, if it appears by petition (verified as hereinafter mentioned) that the testator or intestate, as the case may be, at the time of his death had his fixed place of abode within the jurisdiction of such Delegate.

Conclusiveness of probate or letters of administration.

59. Probate or letters of administration shall have effect over all the property, movable or immovable of the deceased throughout Mysore,

and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him,

and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such property to the person to whom such probate or letters of administration shall have been granted.

Conclusiveness of application for probate or administration, if properly made and verified.

60. The application for probate or letters of administration, if made and verified in the manner hereinafter mentioned, shall be conclusive for the purpose of authorizing the grant of probate or administration, and no such grant shall be impeached by reason that the testator or intestate had no fixed place of abode, or no property within the district at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

Petition for probate.

61. Application for probate or for letters of administration with the will annexed shall be made by a petition distinctly written in English or Kannada with the will, or, in the cases mentioned in sections 24, 25 and 26, a copy, draft or statement of the contents thereof, annexed, and stating—

the time of the testator's death,

that the writing annexed is his last will and testament, or as the case may be,

that it was duly executed,

the amount of assets which are likely to come to the petitioner's hands; and,

where the application is for probate, that the petitioner is the executor named in the will.

In addition to these particulars, the petition shall further state,

when the application is to the District Judge, that the deceased at the time of his death had a fixed place of abode or had some property situate within the jurisdiction of the Judge; and

when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

62. In cases wherein the will, copy or draft is written in any language other than English or Kannada,

In what cases translation of will to be annexed to petition. Verification of translation by person other than Court translator.

there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed; or, if the will, copy or draft be in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner:—

“I (A. B.) do declare that I read and perfectly understand the language and character of the original, and that the above is a true and accurate translation thereof.”

63. Application for letters of administration shall be made by petition distinctly written as aforesaid, and stating—

Petition for letters of administration.

the time and place of the deceased's death,  
the family or other relatives of the deceased, and  
their respective residences,  
the right in which the petitioner claims,  
the amount of assets which are likely to come to  
the petitioner's hands.

In addition to these particulars, the petition shall further state,

when the application is to a District Judge, that the deceased at the time of his death had a fixed place of abode or had some property situate within the jurisdiction of the Judge; and

when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

64. The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader, if any, and shall be verified by the petitioner in the following manner or to the like effect:—

Petition for probate or administration to be signed and verified.

“I (A. B.), the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief.”

Verification  
of petition  
for probate  
by one  
witness to  
will.

65. Where the application is for probate or for letters of administration with the will annexed, the petition shall also be verified by at least one of the witnesses to the will (when procurable) in the manner or to the effect following—

“I (C. D.), one of the witnesses to the last will and testament of the testator mentioned in the above petition declare that I was present and saw the said testator affix his signature (or mark) thereto (*as the case may be*) (or that the said testator acknowledged the writing annexed to the above petition to be his last will and testament in my presence).”

Punishment  
for false  
averment in  
petition or  
declaration.

66. If any petition or declaration which is hereby required to be verified contains any averment which the person making the verification knows or believes to be false, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

District  
Judge may  
examine  
petitioner in  
person,

67. In all cases it shall be lawful for the District Judge or District Delegate, if he thinks fit,

to examine the petitioner in person upon oath, and also

require  
further  
evidence,

to require further evidence of the due execution of the will, or the right of the petitioner to the letters of administration, as the case may be, and

and issue  
citations to  
inspect pro-  
ceedings.

to issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration.

Publication  
of citation.

The citation shall be fixed up in some conspicuous part of the Court-house, and also in the office of the Deputy Commissioner of the district, and otherwise published or made known in such manner as the Judge or Delegate issuing the same may direct.

Caveats  
against grant  
of probate or  
administra-  
tion.

68. Caveats against the grant of probate or letters of administration may be lodged with the District Judge or a District Delegate ;

and, immediately on any caveat being lodged with any District Delegate, he shall send a copy thereof to the District Judge ;

and, immediately on a caveat being entered with the District Judge, a copy thereof shall be given to the District Delegate, if any, within whose jurisdiction it is alleged the deceased had his fixed place of abode at the

time of his death, and to any other Judge or District Delegate to whom it may appear to the District Judge expedient to transmit the same.

**69.** The caveat shall be to the following effect:—

Form of caveat.

“Let nothing be done in the matter of the estate of *A. B.*, late of \_\_\_\_\_, deceased, who died on the day of \_\_\_\_\_ at \_\_\_\_\_, without notice to *C. D.* of”

**70.** No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge or District Delegate to whom the application has been made or notice thereof has been given of its entry with some other Delegate, until after such notice to the person by whom the same has been entered as the Court shall think reasonable.

After entry of caveat, no proceeding taken on petition until after notice to caveator.

**71.** A District Delegate shall not grant probate or letters of administration in any case in which there is contention as to the grant, or in which it otherwise appears to him that probate or letters of administration ought not to be granted in his Court.

District Delegate when not to grant probate or administration.

*Explanation.*—By “contention” is understood the appearance of any one in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf to oppose the proceeding.

**72.** In every case in which there is no contention, but it appears to the District Delegate doubtful whether the probate or letters of administration should or should not be granted, or when any question arises in relation to the grant, or application for the grant, of any probate or letters of administration, the District Delegate may, if he thinks proper, transmit a statement of the matter in question to the District Judge, who may direct the District Delegate to proceed in the matter of the application, according to such instructions as to the Judge may seem necessary, or may forbid any further proceeding by the District Delegate in relation to the matter of such application, leaving the party applying for the grant in question to make application to the Judge.

Power to transmit statement to District Judge in doubtful cases where no contention.

**73.** In every case in which there is contention, or the District Delegate is of opinion that the probate or letters of administration should be refused in his Court, the petition, with any documents that may have been filed therewith, shall be returned to the person by whom the application was made, in order that the same may be presented to the District Judge;

Procedure where there is contention or District Delegate thinks probate or letters of administration should be refused in his Court.

unless the District Delegate thinks it necessary, for the purposes of justice, to impound the same, which he is hereby authorized to do; and in that case the same shall be sent by him to the District Judge.

Grant of  
probate to be  
under seal of  
Court.

Form of such  
grant.

74. Whenever it appears to the Judge or District Delegate that probate of a will should be granted, he shall grant the same under the seal of his Court in manner following:—

“I, \_\_\_\_\_, Judge of the District of \_\_\_\_\_,  
[or Delegate appointed for granting probate or letters of  
administration in (*here insert the limits of the Delegate's  
jurisdiction*)] hereby make known that on the \_\_\_\_\_ day  
of \_\_\_\_\_ in the year \_\_\_\_\_ the last will of  
late of \_\_\_\_\_, a copy whereof is hereunto annexed,  
was proved and registered before me, and that administra-  
tion of the property and credits of the said deceased, and  
in any way concerning his will, was granted to

\_\_\_\_\_, the executor in the said will named, he  
having undertaken to administer the same and to make a  
full and true inventory of the said property and credits  
and exhibit the same in this Court within six months  
from the date of this grant or within such further time as  
the Court may from time to time appoint, and also to  
render to this Court a true account of the said property  
and credits within one year from the same date or within  
such further time as the Court may from time to time  
appoint.

The \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.”

Grant of  
letters of  
administra-  
tion to be  
under seal of  
Court.

Form of such  
grant.

75. Whenever it appears to the District Judge or District Delegate that letters of administration to the estate of a person deceased, with or without a copy of the will annexed should be granted, he shall grant the same under the seal of this Court in manner following:—

“I, \_\_\_\_\_, Judge of the District of \_\_\_\_\_,  
[or Delegate appointed for granting probate or letters of  
administration in (*here insert the limits of the Delegate's  
jurisdiction*)] hereby make known that on the \_\_\_\_\_ day  
of \_\_\_\_\_ letters of administration (with or without the  
will annexed, *as the case may be*) of the property and  
credits of \_\_\_\_\_, late of \_\_\_\_\_, deceased, were  
granted to \_\_\_\_\_, the son (or *as the case may be*)  
of the deceased, he having undertaken to administer the  
same, and to make a full and true inventory of the said  
property and credits, and exhibit the same in this Court  
within six months from the day of this grant or within

such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.

The day of 19 .”

76. Every person to whom letters of administration are granted, and, if the Judge so direct, any person to whom probate is granted, shall give a bond to the Judge of the District Court, to ensure for the benefit of the Judge for the time being, with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge from time to time by any general or special order directs.

Administration bond.

77. The Court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept,

Assignment of administration bond.

and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court may think fit,

assign the same to some proper person ;

who shall thereupon be entitled to sue on the said bond in his own name as if the same had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach thereof.

78. No probate of a will shall be granted until after the expiration of seven clear days and no letters of administration shall be granted until after the expiration of fourteen clear days, from the day of the testator or intestate's death.

Time before which probate or administration shall not be granted.

79. Every District Judge and District Delegate shall file and preserve among the records of his Court all original wills of which probate or letters of administration with the will annexed may be granted by him ;

Filing of original wills of which probate or administration with will annexed granted.

and the Government shall make regulations for the preservation and inspection of the wills so filed as aforesaid.

80. After any grant of probate or letters of administration, no other than the person to whom the same shall have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout Mysore, until such probate or letters of administration shall have been recalled or revoked.

Grantee of probate or administration alone to sue, etc., until same revoked.

Procedure in  
contentious  
cases.

**81.** In any case before the District Judge in which there is contention, the proceedings shall take, as nearly as may be, the form of a suit, according to the provisions of the Code of Civil Procedure, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who may have appeared as aforesaid to oppose the grant shall be the defendant.

Payment to  
executor or  
administrator  
before  
probate or  
administra-  
tion revoked.

**82.** Where any probate is or letters of administration are, revoked, all payments *bona fide* made to any executor or administrator under such probate or administration before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same ;

Right of such  
executor or  
administrator  
to recoup  
himself.

and the executor or administrator who shall have acted under any such revoked probate or administration may retain and reimburse himself out of the assets of the deceased in respect of any payments made by him which the person to whom probate or letters of administration shall be afterwards granted might have lawfully made.

Power to  
refuse letters  
of administra-  
tion.

**83.** Notwithstanding anything hereinbefore contained, it shall be in the discretion of the Court to make an order refusing, for reasons to be recorded by it in writing, to grant any application for letters of administration made under the Regulation.

Appeals from  
orders of  
District  
Judge.

**84.** Every order made by a District Judge or District Delegate by virtue of the powers hereby conferred upon him shall be subject to appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals.

Concurrent  
jurisdiction of  
High Court.

**85.** The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

## CHAPTER VI.

### OF THE POWERS OF AN EXECUTOR OR ADMINISTRATOR.

In respect of  
causes of  
action surviv-  
ing deceased,  
and debts due  
at death.

**86.** An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and may exercise the same powers for the recovery of debts due to him at the time of his death as the deceased had when living.

87. All demands whatsoever, and all rights to prosecute or defend any suit or other proceeding, existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators, except causes of action that are of a strictly personal nature or do not survive under any rule of law, and except also cases where, after the death of the party, the relief sought could not be enjoyed, or granting it would be nugatory.

Demands and rights of suit of or against deceased survive to and against executor or administrator.

### *Illustration.*

A collision takes place on a railway in consequence of some neglect or default of the officials, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having instituted any suit. The cause of action does not survive.

88. (1) An executor or administrator has, subject to the provisions of this section, power to dispose, as he thinks fit, of all or any of the property for the time being vested in him under section 4.

Power of executor or administrator to dispose of property.

(2) The power of an executor to dispose of immovable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immovable property specified in the order in a manner permitted by the order.

(3) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immovable property for the time being vested in him under section 4, or

(b) lease any such property for a term exceeding five years.

(4) A disposal of property by an executor or administrator in contravention of sub-section (2) or sub-section (3), as the case may be, is voidable at the instance of any other person interested in the property.

(5) Before any probate or letters of administration is or are granted under this Regulation, there shall be endorsed thereon or annexed thereto a copy of sub-sections (1), (2) and (4), or of sub-sections (1), (3) and (4) as the case may be.



(6) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by the last foregoing sub-section not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorise an executor or administrator to act otherwise than in accordance with the provisions of this section.

Purchase by executor or administrator of deceased's property.

89. If an executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

Powers of several executors or administrators exercisable by one.

90. When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary in the will or letters of administration, be exercised by any one of them who has proved the will or taken out administration.

### *Illustrations.*

(a) One of the several executors has power to release a debt due to the deceased.

(b) One has power to surrender a lease.

(c) One has power to sell the property of the deceased, movable or immovable.

(d) One has power to assent to a legacy.

(e) One has power to endorse a promissory note payable to the deceased.

(f) The will appoints, A. B. C. and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

Survival of powers on death of one of several executors or administrators.

91. Upon the death of one or more of several executors or administrators, all the powers of the office become, in the absence of any direction to the contrary in the will or letters of administration, vested in the survivors or survivor.

Powers of administrator of effects unadministered.

92. The administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator.

Powers of administrator during minority.

93. An administrator during minority has all the powers of an ordinary administrator.

Powers of married executrix or administratrix.

94. When probate or letters of administration shall have been granted to a married woman, she has all the powers of an ordinary executor or administrator.

## CHAPTER VII.

## OF THE DUTIES OF AN EXECUTOR OR ADMINISTRATOR.

95. It is the duty of an executor to provide funds for the performance of the necessary funeral ceremonies of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

As to deceased's funeral ceremonies.

96. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character,

Inventory and account.

and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

(2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under Section 176 of the Indian Penal Code.

(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under Section 193 of that Code.

97. The executor or administrator shall collect, with reasonable diligence, the property of the deceased and the debts that were due to him at the time of his death.

As to property of, and debts owing to, deceased.

98. Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges, including fees for medical attendance, and board and lodging for one month previous to his death, are to be paid before all debts.

Expenses to be paid before all debts.

99. The expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary

Expenses to be paid next after such expenses.

for administering the estate, are to be paid next after the funeral expenses and death-bed charges.

Wages for certain services to be next paid, and then other debts.

**100.** Wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan, or domestic servant are next to be paid, and then the other debts of the deceased according to their respective priorities (if any).

Save as aforesaid all debts to be paid equally and rateably.

**101.** Save as aforesaid, no creditor is to have a right of priority over another. But the executor or administrator shall pay all such debts as he knows of, including his own, equally and rateably, as far as the assets of the deceased will extend.

Debts to be paid before legacies. Executor or administrator not bound to pay legacies without indemnity. Abatement of general legacies.

**102.** Debts of every description must be paid before any legacy.

**103.** If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due.

**104.** If the assets, after payment of debts, necessary expenses and specific legacies are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions ;

Executor not to pay one legatee in preference to another.

and, in the absence of any direction to the contrary in the will, the executor has no right to pay one legatee in preference to another, nor to retain any money on account of a legacy to himself or to any person for whom he is a trustee.

Non-abatement of specific legacy when assets sufficient to pay debts.

**105.** Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

Right under demonstrative legacy when assets sufficient to pay debts and necessary expenses.

**106.** Where there is a demonstrative legacy, and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted, and if, after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

Rateable abatement of specific legacies.

**107.** If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts.

*Illustration.*

A has bequeathed to B, a diamond ring, valued at 500 rupees, and to C a horse, valued at 1,000 rupees. It is found necessary to sell all the effects of the testator and his assets, after payment of debts, are only 1,000 rupees. Of this sum rupees 333-5-4 are to be paid to B, and rupees 666-10-8 to C.

**108.** For the purpose of abatement, a legacy for life, a sum appropriated by the will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies.

*Legacies treated as general for purpose of abatement.*

## CHAPTER VIII.

## OF THE EXECUTOR'S ASSENT TO A LEGACY.

**109.** The assent of the executor is necessary to complete a legatee's title to his legacy.

*Assent necessary to complete legatee's title.*

*Illustrations.*

(a) A by his will bequeaths to B, his Government paper, which is in deposit with the Bank of Bengal. The Bank has no authority to deliver the securities, nor B the right to take possession of them, without the assent of the executor.

(b) A by his will has bequeathed to C his house in Calcutta in the tenancy of B. C is not entitled to receive the rents without the assent of the executor.

**110.** The assent of the executor to a specific bequest shall be sufficient to divest his interest as executor therein and to transfer the subject of the bequest to the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way.

*Effect of executor's assent to specific legacy.*

This assent may be verbal, and it may be either express or implied from the conduct of the executor.

*Nature of assent.*

*Illustrations.*

(a) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(b) The interest of a fund is directed by the will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(c) A bequest is made of a fund to A, and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(d) Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(e) A person to whom a specific article has been bequeathed takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

Conditional  
assent.

111. The assent of an executor to a legacy may be conditional, and if the condition be one which he has a right to enforce, and it is not performed, there is no assent.

### *Illustrations.*

(a) A bequeaths to B his lands of Sultanpur, which at the date of the will, and at the death of A were subject to a mortgage for 10,000 rupees. The executor assents to the bequest on condition that B shall, within a limited time, pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(b) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

Assent of  
executor to  
his own  
legacy.

112. When the executor is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may in like manner be express or implied.

Implied  
assent.

Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor.

### *Illustration.*

An executor takes the rent of a house or the interest of Government securities bequeathed to him, and applies it to his own use. This is assent.

Effect of  
executor's  
assent.

113. The assent of the executor to a legacy gives effect to it from the death of the testator.

### *Illustrations.*

(a) A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser, and completes his title to the legacy.

(b) A bequeaths 1,000 rupees to B with interest from his death. The executor does not assent to this legacy until the expiration of a year from A's death. B is entitled to interest from the death of A.

Executor  
when  
to deliver  
legacies.

114. An executor is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

*Illustration.*

A by his will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

## CHAPTER IX.

## OF THE PAYMENT AND APPORTIONMENT OF ANNUITIES.

115. Where an annuity is given by the will, and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

Commencement of annuity when no time fixed by will.

116. Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death, and shall, if the executor think fit, be paid when due; but the executor shall not be bound to pay it till the end of the year.

When annuity, to be paid quarterly or monthly, first falls due.

117. Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the will authorizes the first payment to be made;

Date of successive payments when first payment directed to be made within given time, or on certain day.

and, if the annuitant dies in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

Apportionment where annuitant dies between times of payment.

## CHAPTER X.

## OF THE INVESTMENT OF FUNDS TO PROVIDE FOR LEGACIES.

118. Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may by any general rule to be made from time to time, authorize or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of sum bequeathed where legacy, not specific, given for life.

119. Where a general legacy is given to be paid at a future time, the executor shall invest a sum sufficient to meet it in securities of the kind mentioned in the last preceding section.

Investment of general legacy, to be paid at future time.

Intermediate interest.

The intermediate interest shall form part of the residue of the testator's estate.

Procedure when no fund charged with, or appropriated to, annuity.

120. Where an annuity is given and no fund is charged with its payment or appropriated by the will to answer it, a sum sufficient to produce the annuity shall be invested for that purpose in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct.

Transfer to residuary legatee of contingent bequest.

121. Where a bequest is contingent, the executor is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee (if any) on his giving sufficient security for the payment of the legacy if it shall become due.

Investment of residue bequeathed for life, with direction to invest in specified securities.

122. Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

Time and manner of conversion and investment.

123. Such conversion and investment as are contemplated by the last preceding section shall be made at such times and in such manner as the executor in his discretion thinks fit ;

Interest payable until investment.

and, until such conversion and investment shall be completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of six per cent per annum upon the market-value (to be computed as of the date of the testator's death) of such part of the fund as shall not yet have been so invested.

Procedure where minor entitled to immediate payment or possession of bequest, and no direction to pay to person on his behalf.

124. Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge by whom, or by whose District Delegate, the probate, was or letters of administration with the will annexed, were granted, to the account of the legatee, and such payment into the Court of the District Judge shall be a sufficient discharge for the money so paid ;

and such money, when paid in, shall be invested in the purchase of such securities, as the High Court may by general rule direct, which, with the interest thereon, shall be transferred or paid to the person entitled thereto,

or otherwise applied for his benefit, as the judge may direct.

## CHAPTER XI.

### OF THE PRODUCE AND INTEREST OF LEGACIES.

**125.** The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

Legatee's title to produce of specific legacy.

*Exception.*—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

#### *Illustrations.*

(a) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor, the sheep are shorn, or some of the ewes produce lambs. The wool and lambs are the property of B.

(b) A bequeaths his Government securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(c) The testator bequeaths all his four per cent Government promissory notes to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the notes, but the interest which accrues in respect of them, between the testator's death and A's completing 18, forms part of the residue.

**126.** The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

Residuary legatee's title to produce of residuary fund.

*Exception.*—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

#### *Illustrations.*

(a) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(b) The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

**127.** Where no time has been fixed for the payment of a general legacy, interest begins to run from the expiration of one year from the testator's death.

Interest when no time fixed for payment of general legacy.



*Exceptions.*—(1) Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2) Where the testator was a parent or a more remote ancestor of the legatee or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3) Where a sum is bequeathed to a minor, with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

Interest when  
time fixed.

**128.** Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

*Exception.*—Where a testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the will for maintenance, or unless the will contains a direction to the contrary.

Rate of inter-  
est.

**129.** The rate of interest shall be six per cent per annum.

No interest  
on arrears of  
annuity with-  
in first year  
after testa-  
tor's death.

**130.** No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the will for making the first payment of the annuity.

Interest on  
sum to be in-  
vested to pro-  
duce annuity.

**131.** Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

## CHAPTER XII.

### OF THE REFUNDING OF LEGACIES.

Refund of  
legacy paid  
under Judge's  
orders.

**132.** An executor who has paid a legacy under the order of a Judge is entitled to call upon the legatee to refund in the event of the assets proving insufficient to pay all the legacies.

No refund if  
paid voluntar-  
ily.

**133.** When an executor has voluntarily paid a legacy, he cannot call upon a legatee to refund in the event of the assets proving insufficient to pay all the legacies.

Refund when  
legacy be-  
comes due on  
performance  
of condition  
within further  
time allowed.

**134.** When the time prescribed by the will for the performance of a condition has elapsed, without the condition having been performed, and the executor has thereupon, without fraud, distributed the assets, in such case, if

further time has, under the second clause of this section, been allowed for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor, but those to whom he has paid it are liable to refund the amount.

Where the will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non-fulfilment of which the subject matter of the bequest is to go over to another person, or the bequest is to cease to have effect, the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as is requisite to make up for the delay caused by such fraud.

**135.** When the executor has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

When each legatee compellable to refund in proportion.

**136.** Where an executor or administrator has given such notices as the High Court may, by any general rule to be made from time to time, prescribe, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets, or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person, of whose claim he has not had notice at the time of such distribution ;

Distribution of assets.

but nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

Creditor may follow assets.

**137.** A creditor who has not received payment of his debt may call upon a legatee who has received payment of his legacy to refund whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies, and whether the payment of the legacy by the executor was voluntary or not.

Creditor may call upon legatee to refund.

**138.** If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund, under the last preceding section, cannot oblige one who has received payment in full to refund,

When legatee, not satisfied or compelled to refund under Section 137, cannot oblige one paid in full to refund

whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

When unsatisfied legatee must first proceed against executor, if solvent.

**139.** If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy must, before he can call on a satisfied legatee to refund, first proceed against the executor if he is solvent; but, if the executor is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

Limit to refunding of one legatee to another.

**140.** The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

### *Illustration.*

A has bequeathed 240 rupees to B, 480 rupees to C, and 720 rupees to D. The assets are only 1,200 rupees, and if properly administered would give 200 rupees to B, 400 rupees to C, and 600 rupees to D. C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to refund 80 rupees, and D to refund 120 rupees.

Refunding to be without interest.

**141.** The refunding shall, in all cases, be without interest.

Residue after usual payments to be paid to residuary legatee.

**142.** The surplus or residue of the deceased's property, after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the will.

Transfer of assets from Mysore to executor or administrator in country of domicile for distribution.

**143.** Where a person not having his domicile in Mysore has died leaving assets both in Mysore and in the country in which he had his domicile at the time of his death,

and there have been a grant of probate or letters of administration in Mysore with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country,

the executor or administrator, as the case may be, in Mysore after having given such notices as are mentioned in section 136 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of,

may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of Mysore who are entitled thereto, transfer, with the consent of the executor or administrator as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

## CHAPTER XIII.

OF THE LIABILITY OF AN EXECUTOR OR ADMINISTRATOR  
FOR DEVASTATION.

**144.** When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

Liability of executor or administrator for devastation.

*Illustrations.*

(a) The executor pays out of the estate an unfounded claim. He is liable to make good the loss caused by the payment.

(b) The deceased had a valuable lease renewable by notice, which the executor neglects to give at the proper time. The executor is liable to make good the loss caused by the neglect.

(c) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

**145.** When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

For neglect to get in any part of property.

*Illustrations.*

(a) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount so lost.

(b) The executor neglects to sue for a debt till the debtor is able to plead the Regulation for the limitation of suits, and the debt is thereby lost to the estate. The executor is liable to make good the amount of the debt.

## CHAPTER XIV.

## MISCELLANEOUS.

**146.** In Chapters VIII, IX, X and XII of this Regulation the provisions as to an executor shall apply also to an administrator with the will annexed.

Provisions applied to administrator with will annexed. Saving-clause.

**147.** Nothing herein contained shall—

(a) validate any testamentary disposition which would otherwise have been invalid;

(b) invalidate any such disposition which would otherwise have been valid; or,

(c) deprive any person of any right of maintenance to which he would otherwise have been entitled.

Probate and administration in case of persons exempted from Succession Act, to be granted only under this Regulation.

**148.** No proceedings to obtain probate of a will, or letters of administration to the estate, of any Hindu, Mahomedan, Buddhist or person exempted under Section 332 of the Indian Succession Act, 1865, as applied to Mysore, shall be instituted in any Court in Mysore except under this Regulation.

Amendment of Limitation Regulation, 1911.

**149.** In the first schedule to the Mysore Limitation Regulation, 1911, No. 43, after the figures “321,” the following shall be inserted, namely,—“or under the Probate and Administration Regulation, 1914, Section 136 or 137.”

Surrender of revoked probate or letters of administration.

**150.** (1) When a grant of probate or letters of administration is revoked or annulled under this Regulation, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

(2) If such person wilfully and without sufficient cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment which may extend to three months, or with both.

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## REGULATION No. IX OF 1914.

*(Received the assent of His Highness the Maharaja on  
the 20th day of August 1914.)*

A REGULATION TO AMEND THE MYSORE MINES  
REGULATION, 1906.

Whereas it is expedient to amend the Mysore Mines Regulation, 1906; His Highness the Maharaja is pleased to enact as follows:—

1. The following shall be substituted for Section 17, viz.—

Preamble.

Substitution  
of a new  
section for  
Section 17.

“17. The Superintendent of Police for the Kolar Gold Fields may, by order in writing, direct any person, whose residence within such area as may be notified by Government from time to time is considered undesirable, to quit the said area within twenty-four hours and such person shall not, after the lapse of the said time, remain at or re-enter the said area without the permission of the said Superintendent of Police.

Liability of  
undesirable  
person to be  
ordered off  
any mine or  
coolie colony.

An order passed under this section may be cancelled by the Superintendent of Police or by the District Magistrate.”

2. The last sentence of Section 18 beginning with the word “any” and ending with “19” shall be omitted.

Amendment  
of Section 18.

3. In Section 19 of the said Regulation, for the words “an offence” in the first line, the words “any act prohibited” shall be substituted.

Amendment  
of Section 19.

## REGULATION No. I OF 1915.

*(Received the assent of His Highness the Maharaja  
on the 5th day of February 1915).*

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**A Regulation further to amend the Code of Civil  
Procedure, 1911.**

Whereas it is expedient further to amend the Code of Civil Procedure, 1911; His Highness the Maharaja is pleased to enact as follows:—

Addition of  
a new section  
as section  
54 A.

The following new section shall be added after section 54 of the Regulation as section 54 A :—

“54 A. (1) Where a Civil Court passes a decree for the partition of a building situate within the limits of a Municipality to which the provisions of this section have been declared by Government by a notification in the official Gazette, to apply, the partition shall be made by the President of the Municipal Council in accordance with the law for the time being in force for the execution of such decrees.

(2) It shall be competent for the President executing such decrees to exercise the powers conferred on Courts by sections 2 and 3 of the Partition Regulation, III of 1913, notwithstanding that the share-holders or any of them have not applied for a sale of the property.

(3) In executing a decree under this section, the President of the Municipal Council shall be deemed to be acting judicially.

(4) Orders passed by the President under this Regulation shall be subject to appeal or revision in the same manner and to or by the same Court as similar orders made by the Court which passed the decree.”

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## REGULATION No. IV OF 1915.

*(Received the assent of His Highness the Maharaja  
on the 19th day of April 1915).*

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**A Regulation to amend the Code of Criminal  
Procedure, 1904.**

Whereas it is expedient to amend the Criminal Procedure Code, 1904 ; His Highness the Maharaja is pleased to enact as follows :—

In clause (i) of sub-section (1) of section 260 of the Regulation, the figures “453, 454” shall be inserted after the figure “451.”

Amendment  
of clause (i)  
of sub-  
section.  
(1) of section  
260.

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## REGULATION No. VI OF 1915.

*(Received the assent of His Highness the Maharaja  
on the 20th day of October 1915).*

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**The Indian Soldiers Litigation Regulation.**

Whereas it is expedient to enforce in Mysore the provisions of the Indian Soldiers (Litigation) Act, 1915 ; His Highness the Maharaja is pleased to enact as follows :—

1. The Indian Soldiers (Litigation) Act, XII of 1915, shall, *mutatis mutandis* be enforced in Mysore.

2. It shall also apply to all the members of the Mysore Military Forces (as defined in the Code of Civil Procedure, 1911) on active service in the same way, and to the same extent, as in the case of an Indian Soldier.

3. The Indian Soldiers Litigation (Emergency) Regulation, V of 1915, is hereby repealed.

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*Act No. XII of 1915.*

*An Act to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under war conditions.*

Whereas it is expedient to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under war conditions ; It is hereby enacted as follows :—

Short title  
and extent.

1. (1) This Act may be called the Indian Soldiers (Litigation) Act, 1915.

(2) It extends to the whole of British India, including British Beluchistan.

Definitions.

2. In this Act—

“Indian soldier” means any person subject to the Indian Army Act, 1911 ;

“prescribed” means prescribed by rules made under this Act ;

"proceeding" includes suit and appeal; and  
 "serving under war conditions" means—

(1) during the continuance of the present war and for six months thereafter, serving out of India or serving in India when such service has been declared, by notification of the Governor-General in Council in the Gazette of India, to be service under war conditions; and

(2) after the expiration of that period, serving in any place when such service has been declared, by notification of the Governor-General in Council in the Gazette of India, to be service under war conditions.

3. If any person presenting any plaint, application or appeal to any Civil or Revenue Court has reason to believe that any adverse party is an Indian soldier who is serving under war conditions, he shall state the fact in his plaint, application or appeal.

Particulars to be furnished in plaints, applications or appeals to Civil or Revenue Court.

4. If any Civil or Revenue Court has reason to believe that any party to any proceeding pending before such Court is an Indian soldier who is serving under war conditions, and that such soldier is not represented in the proceeding by any person duly authorized to appear, plead, or act on his behalf, such Court shall give notice thereof in the prescribed manner to the prescribed authority.

Notice to be given in case of unrepresented Indian soldier.

5. On receipt of a notice under section 4, the prescribed authority may, if it is of opinion that a postponement of the proceeding as against such soldier is necessary in the interests of justice, certify the fact in the prescribed manner to the Court in which the proceeding is pending, and thereupon such Court shall postpone the proceeding as against such soldier for the prescribed period, or, if no period has been prescribed, for such period as it thinks fit.

Postponement of proceedings.

6. If, after the issue of a notice under section 4, the prescribed authority either certifies that such postponement is not necessary or fails to certify, in the case of a soldier resident in the district in which the Court is situate, within two months, or in any other case, within three months from the date of the issue of the notice under section 4, that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

Court may proceed when no certificate received within certain period

7. If the Collector has reason to believe that any Indian soldier who ordinarily resides, or who has property,

Power of Collector to intervene *suo motu*.

in his district and is serving under war conditions, is a party to any proceeding pending before any Civil or Revenue Court, and that such soldier is not represented in such proceeding by any person duly authorized to appear, plead, and act in his behalf, the Collector may, if he is of opinion that a postponement of the proceeding as against such soldier is necessary in the interests of justice, certify the fact in the prescribed manner to such Court, and if the Court is satisfied that such Indian soldier is not so represented, the Court shall postpone the proceeding as against such soldier in the manner provided in section 5.

Power to set aside decrees and orders passed against an Indian soldier serving under war conditions.

8. (1) In any proceeding before a Civil or Revenue Court in which a decree or order has been passed against any Indian soldier whilst such soldier was serving under war conditions, such soldier may apply to the Court which passed the same for an order to set it aside; and if he satisfies the Court that default after the 5th of May, 1915, has been made in complying with the provisions of section 3 or 4, the Court shall, or, in any other case if the interests of justice require such a course, the Court, subject to such conditions (if any) as it thinks fit to impose, may make an order setting aside the decree or order as against such soldier:

Provided, firstly, that any such application is made within three months from the date on which such soldier ceased to serve under war conditions; secondly, that no decree or order shall be set aside on any such application unless notice thereof has been served on the opposite party; and thirdly, that when the decree or order is of such a nature, that it cannot be set aside as against such soldier only, it may be set aside as against all or any of the parties against whom it has been made.

(2) The provisions of section 5 of the Indian Limitation Act, 1908, shall apply to applications under this section.

(3) Where an order is made in the exercise of the power conferred by sub-section (1), the Court shall continue the proceeding.

Power of Civil or Revenue Court to refer question of whether service was under war conditions or not. Rule-making power.

9. If any Civil or Revenue Court is in doubt whether any Indian soldier is or was at any particular time serving under war conditions, such Court may refer the point for the decision of the prescribed authority, and the certificate of such authority shall be conclusive evidence on the point.

10. The Local Government after consulting the

High Court, may by notification in the local official gazette, make rules—

- (a) prescribing the manner and form in which any notice or certificate under this Act shall be given and the authorities to whom such notices shall be given, and by whom the powers under this Act shall be exercised ;
- (b) the period for which proceedings or any class of proceeding shall be suspended under this Act, and
- (c) generally providing for any matters incidental to the purposes of this Act.

11. In computing the period of limitation prescribed by the Indian Limitation Act, 1908, or any other law for the time being in force for any suit, appeal or application to any Civil or Revenue Court in which the plaintiff, appellant or applicant is an Indian soldier, the time during which such soldier has been serving under war conditions, since the 4th of August 1914, shall be excluded.

Modification of law of limitation in the case of Indian soldiers serving under war conditions.

12. The Governor-General in Council may, by notification in the *Gazette of India*, direct that all or any of the provisions of this Act shall apply to any other class of persons in the service of His Majesty specified in such notification in the same manner as they apply to Indian soldiers, and upon such notification such provisions shall apply accordingly.

Power to apply the provisions of this Act to other persons in the service of the Crown.

13. The Indian Soldiers (Litigation) Ordinance, 1915, is hereby repealed.

Repeal of Ordinance No. II of 1915.

## REGULATION No. VII OF 1915.

*(Received the assent of His Highness the Maharaja  
on the 13th day of November 1915).*

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**A Regulation to further amend the Mysore  
Mines Regulation, 1906.**

Whereas it is expedient further to amend the Mysore Mines Regulation, 1906; His Highness the Maharaja is pleased to enact as follows:—

Addition of a  
new section  
as Section 36A.

The following new section shall be added after section 36 as section 36A:—

Fines to be  
credited to  
the funds of  
the Sanitary  
Board.

“36A. All fines imposed for the breach of any bye-law made under sub-section (2) of section 35 shall when recovered, be credited to the funds of the Sanitary Board constituted under sub-section (1) thereof.”

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# REGULATION No. IX OF 1915.

*(Received the assent of His Highness the Maharaja  
on the 26th day of November 1915).*

## A Regulation further to amend the Mysore Civil Courts Regulation, 1883.

Whereas it is expedient further to amend the Mysore Civil Courts Regulation, 1883; His Highness the Maharaja is pleased to enact as follows:—

1. In the second paragraph to section 16 of the Regulation, the figure "100" shall be substituted for the figure "50" occurring at the end of that paragraph. Amendment  
of the second  
para to sec-  
tion 16 of the  
Regulation.
2. For section 21 of the Regulation, the following new section shall be substituted:—  
 "21 Subject to such rules as the Government of Mysore may prescribe in this behalf, the ministerial officers of every Court shall be appointed and may be fined, suspended or removed, by the Judge of that Court." Substitution  
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section for  
section 21 of  
the Regula-  
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## REGULATION No. I OF 1916.

## The Mysore Lunacy Regulation.

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## REGULATION No. I OF 1916.

*(Received the assent of His Highness the Maharaja  
on the 25th day of February 1916).*

**A Regulation to consolidate and amend the  
Law relating to Lunacy.**

*(As amended by Regulation, XII of 1933).*

Whereas it is expedient to consolidate and amend the law relating to lunacy; His Highness the Maharaja is pleased to enact as follows :—

## PART I.

## PRELIMINARY.

## CHAPTER I.

Short title  
and extent.

1. (1) This Regulation may be called the Mysore Lunacy Regulation, 1916.

(2) It extends to the whole of Mysore.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context,—

(1) “asylum” means the asylum for lunatics established by Government at Bangalore;

(2) “cost of maintenance” in an asylum includes the cost of lodging, maintenance, clothing, medicine and care of a lunatic and any expenditure incurred in removing such lunatic to and from the asylum;

(3) “district court” means the principal Civil Court of original jurisdiction :

(4) “criminal lunatic” means any person for whose confinement in, or removal to, the asylum, jail or other place of safe custody an order has been made in accordance with the provisions of section 466 or section 471 of the Code of Criminal Procedure, 1904 :

(5) “lunatic” means an idiot or person of unsound mind :

(6) "magistrate" means a District Magistrate, Sub-Divisional Magistrate or a Magistrate of the first class specially empowered by Government to perform the functions of a magistrate under this Regulation :

(7) "medical officer" means a gazetted medical officer of Government, and includes a medical practitioner declared by general or special order of Government to be a medical officer for the purposes of this Regulation :

(8) "medical practitioner" means the holder of the degree of Doctor, Bachelor or licentiate of medicine and surgery of any of the British or Indian Universities and any person trained in a medical college or school who holds a diploma or certificate granted by the Government of Mysore or by any Local Government in British India declaring him to be qualified to practice medicine, surgery or midwifery or be qualified for the duties of an Assistant or Sub-Assistant Surgeon :

(9) "prescribed" means prescribed by this Regulation or by rule made thereunder :

(10) "reception order" means an order made under the provisions of this Regulation for the reception into the asylum of a lunatic other than a lunatic so found by inquisition :

(11) "relative" includes any person related by blood, marriage, or adoption : and

(12) "rule" means a rule made under this Regulation.

## PART II.

### RECEPTION, CARE AND TREATMENT OF LUNATICS.

## CHAPTER II.

### *Reception of Lunatics.*

3. (1) No person other than a criminal lunatic or a lunatic so found by inquisition shall be received or detained in the asylum without a reception order save as provided by sections 7, [a] 10A, 14 and 69 :—

Reception of persons in asylum.

Provided that the person in charge of the asylum may, with the consent of two of the visitors of the asylum

[a] Inserted by section 2 of Regulation XII of 1933.

which consent shall not be given except upon a written application from the intending boarder, receive and lodge as a boarder in the asylum any person who is desirous of submitting himself to treatment.

(2) A boarder received in the asylum under the proviso to sub-section (1) shall not be detained in the asylum for more than twenty-four hours after he has given to the person in charge of the asylum notice in writing of his desire to leave the asylum.

*Reception orders on petition.*

Application  
for reception  
order.

4. (1) An application for a reception order shall be made by petition accompanied by a statement of particulars to the Magistrate within the local limits of whose jurisdiction the alleged lunatic ordinarily resides, shall be in the form prescribed and shall be supported by two medical certificates on separate sheets of paper, one of which certificates shall be from a medical officer:

[a] Provided that in cases in which one of the certificates is signed by the Superintendent of the Mental Hospital and he certifies that the alleged lunatic is in immediate need of treatment in the Hospital, the application for a reception order may be made to the Magistrate within the local limits of whose jurisdiction the Hospital is situated.

(2) If either of the medical certificates is signed by any relative, partner or assistant of the lunatic or of the petitioner, the petition shall state the fact, and where the person signing is a relative, the exact manner in which he is related to the lunatic or petitioner.

(3) The petition shall also state whether any previous application has been presented for an inquiry into the mental capacity of the alleged lunatic in any Court, and if such application has been made, a certified copy of the order made thereon shall be attached to the petition.

Application  
by whom to  
be presented.

5. (1) The petition shall be presented, if possible by—

(a) the husband or wife of the alleged lunatic,  
or

(b) by any other relative of his.

(2) If the petition is not so presented, it shall contain a statement of the reasons why it is not so presented, and of the connection of the petitioner with

the alleged lunatic, and the circumstances under which he presents the petition.

(3) No person shall present a petition unless he has attained the age of majority as determined by the law to which he is subject and has within fourteen days before the presentation of the petition, personally seen the said lunatic.

(4) The petition shall be signed and verified by the petitioner, and the statement of prescribed particulars by the person making such statement.

6. (1) Upon the presentation of the petition, the Magistrate shall consider the allegations in the petition and the evidence of the lunacy appearing by the medical certificates.

Procedure  
upon petition  
for reception  
order.

(2) If he considers that there are grounds for proceeding further, he shall personally examine the alleged lunatic unless for reasons to be recorded in writing he thinks it unnecessary or inexpedient so to do.

(3) If he is satisfied that a reception order may properly be made forthwith, he may make the same accordingly.

(4) If he is not so satisfied, he shall fix a date (notice whereof shall be given to the petitioner and to any other person to whom in the opinion of the Magistrate notice should be given) for the consideration of the petition, and he may make such further or other inquiries of or concerning the alleged lunatic as he thinks fit.

7. Upon the presentation of the petition, the Magistrate may make such order as he thinks fit for the suitable custody of the alleged lunatic pending the conclusion of the inquiry.

Detention of  
alleged  
lunatic  
pending  
inquiry.

8. The petition shall be considered in private in the presence of the petitioner, the alleged lunatic (unless the Magistrate in his discretion otherwise directs), any person appointed by the alleged lunatic to represent him and such other persons as the Magistrate thinks fit.

Consideration  
of petition.

9. (1) At the time appointed for the consideration of the petition, the Magistrate may either make a reception order or dismiss the petition, or may adjourn the same, for further evidence or inquiry, and may make such order as to the payment of the costs of the inquiry by the person upon whose application it was made, or out of the estate of the alleged lunatic if found to be of unsound mind, or otherwise as he thinks fit.

Order.

(2) If the petition is dismissed, the Magistrate shall record in writing his reasons for dismissing the same, and shall deliver or cause to be delivered to the petitioner a copy of such order.

Further  
provisions as  
to reception  
orders on  
petition.

10. No reception order shall be made under section 6 or section 9, save in the case of a lunatic who is dangerous and unfit to be at large, unless—

(a) the Magistrate is satisfied that the person in charge of the asylum is willing to receive the lunatic, and

(b) the petitioner or some other person engages in writing to the satisfaction of the Magistrate, to pay the cost of maintenance of the lunatic.

Urgency  
orders

[a] 10-A (1) In cases of urgency where it is expedient for the welfare of the person alleged to be lunatic that the alleged lunatic shall be forthwith placed under care and treatment, he may be received and detained in the Mental Hospital upon an urgency order, made (if possible) by the husband or wife or by a relative of the alleged lunatic, accompanied by one medical certificate.

(2) An urgency order may be signed before or after the medical certificate.

(3) If an urgency order is not signed by the husband or wife or by a relative of the alleged lunatic, the order shall contain a statement of the reasons why the same is not so signed and of the connection with the alleged lunatic of the person signing the order and the circumstances under which he signs the same.

(4) No person shall sign an urgency order unless he is at least twenty-one years of age and has within two days before the date of the order personally seen the alleged lunatic.

(5) An urgency order may be made as well after as before a petition for a reception order has been presented. An urgency order, if made before a petition has been presented shall be referred to in the petition, and if made after the petition has been presented, a copy thereof shall forthwith be sent by the petitioner to the Magistrate to whom the petition has been presented.

(6) An urgency order shall remain in force for seven days from its date : or if a petition for a reception order is pending, then, until the petition is finally disposed of.

(7) An urgency order shall have sub-joined or annexed thereto a statement of particulars and shall be in the form prescribed.

*Reception orders otherwise than on petition.*

11. (1) Every officer in charge of a police station may arrest or cause to be arrested all persons found wandering at large within the limits of his station whom he has reason to believe to be lunatics, and shall arrest or cause to be arrested all persons within the limits of his station whom he has reason to believe to be dangerous by reason of lunacy. Any person so arrested shall be taken forthwith before the Magistrate.

Powers and duties of police in respect of wandering or dangerous lunatics and lunatics cruelly treated, or not under proper care and control.

(2) Every officer in charge of a police station who has reason to believe that any person within the limits of his station is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, shall immediately report the fact to the Magistrate.

12. Whenever any person is brought before a Magistrate under the provisions of sub-section (1) of section 11, the Magistrate shall examine such person and if he thinks that there are grounds for proceeding further, shall cause him to be examined by a medical officer, and may make such other enquiries as he thinks fit; and if the Magistrate is satisfied that such person is a lunatic and a proper person to be detained, he may, if the medical officer who has examined such person gives a medical certificate with regard to such person, make a reception order for the admission of such lunatic into the asylum:

Reception order in case of wandering and dangerous lunatics.

Provided that if any friend or relative of the lunatic enters into a bond with or without sureties for such sum of money as the Magistrate thinks fit, conditioned that such lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or to others, the Magistrate, instead of making a reception order, may, if he thinks fit, make him over to the care of such friend or relative.

13. (1) If it appears to the Magistrate, on the report of a police officer or the information of any other person, that any person within the limits of his jurisdiction deemed to be a lunatic is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may cause the alleged lunatic to be produced before him, and summon such relative or other person as has or ought to have the charge of him.

Order in case of lunatic cruelly treated, or not under proper care and control.



(2) If such relative or other person is legally bound to maintain the alleged lunatic, the Magistrate may make an order for such alleged lunatic being properly cared for and treated, and, if such relative or other person wilfully neglects to comply with the said order, the Magistrate may sentence him to imprisonment for a term which may extend to one month.

(3) If there is no person legally bound to maintain the alleged lunatic, or if the Magistrate thinks fit so to do, he may proceed as prescribed in section 12, and upon being satisfied in manner aforesaid that the person deemed to be a lunatic is a lunatic and a proper person to be detained under care and treatment may, if a medical officer gives a medical certificate with regard to such lunatic, make a reception order for the admission of such lunatic into the asylum.

Detention of  
alleged  
lunatic  
pending  
report by  
medical  
officer.

14. (1) When any person alleged to be a lunatic is brought before a Magistrate under the provisions of section 11 or section 13, the Magistrate may, by an order in writing, authorize the detention of the alleged lunatic in suitable custody for such time not exceeding 10 days as may be, in his opinion, necessary to enable the medical officer to determine whether such alleged lunatic is a person in respect of whom a medical certificate may be properly given.

(2) The Magistrate may, from time to time, for the same purpose by order in writing, authorize such further detention of the alleged lunatic for periods not exceeding ten days at a time as he thinks necessary :

Provided that no person shall be detained in accordance with the provisions of this section for a total period exceeding thirty days from the date on which he was first brought before the Magistrate.

*Further provisions as to reception orders and  
medical certificate.*

Medical  
certificates.

15. (1) Every medical certificate under this Regulation shall be made and signed by a medical practitioner or a medical officer, as the case may be; and shall be in the form prescribed.

(2) Every medical certificate shall state the facts upon which the person certifying has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts

observed by himself from facts communicated by others ; and no reception order on petition shall be made upon a certificate founded only upon facts communicated by others.

(3) every medical certificate made under this Regulation shall be evidence of the facts therein appearing and of the judgment therein stated to have been formed by the person certifying on such facts as if the matters therein appearing had been verified on oath.

16. (1) A reception order required to be founded on a medical certificate shall not be made unless the person who signs the medical certificate, or, where two certificates are required, each person who signs a certificate, has personally examined the alleged lunatic, in the case of an order upon petition, not more than seven clear days before the date of the presentation of the petition, and, in all other cases, not more than seven clear days before the date of the order.

Time and manner of medical examination of lunatic.

(2) Where two medical certificates are required, a reception order shall not be made unless each person signing a certificate has examined the alleged lunatic separately from the other.

17. A reception order, if the same appears to be in conformity with this Regulation, shall be sufficient authority for the petitioner or any person authorized by him, or in the case of an order not made upon petition, for the person authorized so to do by the person making the order, to take the lunatic and convey him to the place mentioned in such order and for his reception and detention therein, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order.

Authority for reception.

18. Any authority making a reception order under this part shall forthwith send a certified copy of the order to the person in charge of the asylum.

Copy of reception order to be sent to person in charge of asylum.

### *Detention of lunatics pending removal to asylum.*

19. When any reception order has been made under sections 6, 9, 12 or 13, the Magistrate may, for reasons to be recorded in writing, direct that the lunatic, pending his removal to the asylum, be detained in suitable custody in such place as the Magistrate thinks fit.

Detention of lunatics pending removal to asylum.

Lunatic  
prisoners  
how to be  
dealt with.

20. (1) Where it appears to Government that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, Government may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to the asylum or other place of safe custody within the State to be kept there and treated as Government directs, during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to Government that the prisoner has become of sound mind, Government shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within Mysore, or if the prisoner is no longer to be kept in custody, order him to be discharged.

*Reception and detention of criminal lunatics.*

Reception  
and detention  
of criminal  
lunatics.

21. An order under section 466 or section 471 of the Code of Criminal Procedure, 1904, or under section 20 of this Regulation, directing the reception of a criminal lunatic into the asylum shall be sufficient authority for the reception and detention of any person named therein in the asylum.

*Reception after inquisition.*

Reception  
after  
inquisition.

22. A lunatic so found by inquisition may be admitted into the asylum on an order made by the District Court.

Order for  
payment of  
cost of  
maintenance  
of lunatic.

23. (1) When any lunatic has been admitted into the asylum in accordance with the provisions of section 22, the District Court shall, on the application of the person in charge of the asylum, make an order for the payment of the cost of maintenance of the lunatic in the asylum, and may from time to time direct that any sum of money payable under such order shall be recovered from the estate of the lunatic or of any person legally bound to maintain him :

Provided that if at any time it shall appear to the satisfaction of the Court that the lunatic has not sufficient

property, and that no person legally bound to maintain such lunatic has sufficient means for the payment of such cost, the Court shall certify the same instead of making such order for the payment of the cost as aforesaid.

(2) An order under sub-section (1) shall be enforced in the same manner and shall be of the same force and effect and subject to the same appeal as a decree made by the Court in a suit in respect of the property or person therein mentioned.

*Amendment of order or certificate.*

24. If after the reception of any lunatic into the asylum on a reception order, it appears that the order upon which he was received or the medical certificate or certificates upon which such order was made is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the asylum, one of whom shall be a medical officer.

Amendment  
of order or  
certificate.

### CHAPTER III.

#### CARE AND TREATMENT.

*Visitors.*

25. (1) Government shall appoint for the asylum not less than three visitors, one of whom at least shall be a medical officer.

Appointment  
of visitors.

(2) The Inspector-General of Prisons shall be a visitor *ex-officio* of the asylum.

26. Two or more of the visitors, one of whom shall be a medical officer, shall, once at least in every month together inspect every part of the asylum and see and examine, as far as circumstances will permit, every lunatic and boarder therein and the order and certificate for the admission of every lunatic admitted since the last visitation of the visitors and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the inmates thereof.

Monthly  
inspection by  
visitors.

27. (1) When any person is confined under the provisions of section 466 or section 471 of the Code of Criminal Procedure, 1904, the Inspector-General of

Inspection of  
criminal  
lunatics by  
Inspector-  
General or  
visitors.

Prisons, if such person is confined in a jail or the visitors of the asylum or any two of them, if he is confined in the asylum, may visit him in order to ascertain his state of mind ; and he shall be visited once at least in every six months by such Inspector-General or by two of such visitors as aforesaid ; and such Inspector-General or visitors shall make a special report as to the state of mind of such person to the authority under whose order he is confined.

(2) Government may empower the officer in charge of the Jail in which such person may be confined to discharge all or any of the functions of the Inspector-General under sub-section (1).

### *Discharge of Lunatics.*

Order of  
discharge  
from  
asylum by  
visitors.

28. (1) Three of the visitors of the asylum, of whom one shall be a medical officer, may, by order in writing, direct the discharge of any person detained in the asylum, and such person shall thereupon be discharged :

Provided that no order under this sub-section shall be made in the case of a criminal lunatic, otherwise than as provided by section 20 of this Regulation.

(2) When such order is made, if the person is detained under the order of any public authority, notice of the order of discharge shall be immediately communicated to such authority.

Discharge of  
lunatics in  
other cases.

29. A lunatic detained in the asylum under a reception order, made on petition, shall be discharged if the person on whose petition the reception order was made so applies in writing to the person in charge of the asylum :

Provided that no lunatic shall be so discharged if the officer in charge of the asylum certifies in writing that the lunatic is dangerous and unfit to be at large.

Order of  
discharge on  
undertaking  
of relative for  
due care of  
the lunatic.

30. When any relative or friend of a lunatic detained in the asylum under the provisions of section 12 or 13 is desirous that such lunatic shall be delivered over to his care and custody, he may make application to the authority under whose order the lunatic is detained, and such authority, if it thinks fit, in consultation with the person in charge of the asylum and with the visitors or with one of them being a medical officer, and upon such relative or friend entering into a bond with or without sureties for such sum of money as the said authority thinks fit conditioned that such lunatic shall be properly taken care

of and shall be prevented from doing injury to himself or to others, may make an order for the discharge of such lunatic, and such lunatic shall thereupon be discharged.

31. If any lunatic detained in the asylum on a reception order made under sections 6, 9, 12 or 13 is subsequently found on an inquisition under Chapter IV not to be of unsound mind and incapable of managing himself and his affairs, the person in charge of the asylum shall forthwith, on the production of a certified copy of such finding, discharge the alleged lunatic from the asylum.

Discharge of person subsequently found on inquisition not to be of unsound mind.

### *Escape and re-capture.*

32. Every person received into the asylum under any such order as is required by this Regulation, may be detained therein until he is removed or discharged as authorized by law, and in case of escape may, by virtue of such order, be retaken by any police officer or by the person in charge of the asylum, or any officer or servant belonging thereto, or any other person authorized in that behalf by the said person in charge, and conveyed to and received and detained in the asylum :

Order to justify detention and recapture after escape.

Provided that in the case of a lunatic not being a criminal lunatic the power to retake such escaped lunatic under this section shall be exerciseable only for a period of one month from the date of his escape.

## CHAPTER IV.

### PROCEEDINGS IN LUNACY.

#### *Inquisition.*

33. Whenever any person is possessed of property and is alleged to be a lunatic, the District Court within whose jurisdiction such person is residing may, upon application, by order direct an inquisition for the purpose of ascertaining whether such person is of unsound mind and incapable of managing himself and his affairs.

Power of District Court to institute inquisition as to persons alleged to be lunatic.

34. Application for such inquisition may be made by any relative of the alleged lunatic or by the Government Pleader as defined in the Code of Civil Procedure, 1911, or if the property of the alleged lunatic consists in whole or in part of land or any interest in land, by the Deputy Commissioner of the district in which it is situate.

Application by whom to be made.

Notice of  
time and  
place of  
inquisition.

**35.** (1) Notice shall be given to the alleged lunatic of the time and place at which it is proposed to hold the inquisition.

(2) If it appears that {personal service on the alleged lunatic would be ineffectual, the Court may direct such substituted service of the notice as it thinks fit.

(3) The Court may also direct a copy of such notice to be served upon any relative of the alleged lunatic and upon any other person to whom in the opinion of the Court notice of the application should be given.

Powers of  
Court in  
respect of  
attendance  
and  
examination  
of lunatics.

**36.** (1) The Court may require the alleged lunatic to attend at such convenient time and place as it may appoint for the purpose of being personally examined by the Court, or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged lunatic.

(2) The Court may likewise make an order authorizing any person or persons therein named to have access to the alleged lunatic for the purpose of a personal examination.

Rules  
respecting  
attendance  
and  
examination  
of females  
alleged to be  
lunatic.

**37.** The attendance and examination of the alleged lunatic under the provisions of section 36 shall, if the alleged lunatic be a woman who, according to the manners and customs of the country, ought not to be compelled to appear in public, be regulated by the law and practice for the examination of such persons in other civil cases.

Inquisition  
by District  
Court and  
finding  
thereon.

**38.** (1) The District Court, if it thinks fit, may appoint two or more persons to act as assessors to the Court in the said inquisition.

(2) Upon the completion of the inquisition, the Court shall determine whether the alleged lunatic is of unsound mind and incapable of managing himself and his affairs or may come to a special finding that such alleged lunatic is of unsound mind so as to be incapable of managing his affairs but that he is capable of managing himself and is not dangerous to himself or to others.

Inquisition  
by  
subordinate  
Court on  
commission  
issued by  
District  
Court and  
proceedings  
thereof.

**39.** (1) If the alleged lunatic resides at a distance of more than fifty miles from the place where the District Court is held to which the application is made, the said Court may issue a commission to any subordinate Court to make the inquisition, and such subordinate Court shall thereupon conduct the inquisition in the manner hereinbefore provided in this Chapter.

(2) On the completion of the inquisition, the subordinate Court shall transmit the record of its proceedings with the opinions of the assessors, if assessors have

been appointed, and its own opinion on the case ; and the District Court shall thereupon proceed to dispose of the application in the manner provided in section 38, subsection (2) :

Provided that the District Court may direct the subordinate Court to make such further or other inquiries as it thinks fit before disposing of the application.

*Judicial Powers over person and estate of lunatic.*

**40.** (1) The Court, may make orders for the custody of lunatics so found by inquisition and the management of their estates.

Custody of lunatics and management of their estates.

(2) When upon the inquisition it is specially found that the person to whom the inquisition relates is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others, the Court may make such orders as it thinks fit for the management of the estate of the lunatic including proper provisions for the maintenance of the lunatic and of such members of his family as are dependent on him for maintenance, but it shall not be necessary to make any order as to the custody of the person of the lunatic.

**41.** (1) If the estate of a lunatic so found consists in whole or in part of land or any interest in land, the District Court may direct the Deputy Commissioner to take charge of the person and estate of the lunatic :

Power to direct Deputy Commissioner to take charge of person and estate of lunatic in certain cases.

Provided that no such order shall be made without the consent of the Deputy Commissioner previously obtained.

(2) The Deputy Commissioner shall thereupon appoint a manager of the estate, and may appoint a guardian of the person of the lunatic.

**42.** All Proceedings of the Deputy Commissioner in regard to the person or estate of a lunatic under this chapter shall be subject to the control of Government or of such authority as it may appoint in this behalf.

Control over proceedings of Deputy Commissioner.

**43.** (1) In all other cases the District Court shall appoint a manager of the estate of the lunatic and may appoint a guardian of his person :

Power of District Court to appoint guardian and manager and take security from manager.

Provided that a District Court may, instead of appointing a manager of the estate of a lunatic, proceed under sections 44 and 45.

(2) Any person who has been appointed by the



District Court or the Deputy Commissioner to manage the estate of a lunatic shall, if so required, enter into a bond in such form and with such sureties as to the Court or the Deputy Commissioner, as the case may be, may seem fit, engaging duly to account for what he may receive in respect of the property of the lunatic.

Power to apply property for lunatic's maintenance without appointing manager in certain cases.

44. (1) If it appears to the District Court having regard to the situation and condition in life of the lunatic and his family and the other circumstances of the case to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner it may, instead of appointing a manager of the estate, order that the property if realised, be made over to such person as the Court may think fit, to be applied for the purpose aforesaid.

(2) The receipt of the person so appointed shall be a valid discharge to any person who pays any money or delivers any property of the lunatic to such person.

Power to apply property for lunatic's maintenance in case of temporary lunacy.

45. If it appears to the District Court that the unsoundness of mind of a lunatic is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or for the maintenance of such members of his family as are dependent on him for their maintenance, the Court may, in like manner as under section 44, direct his property or a sufficient part of it to be applied for the purpose aforesaid.

Restriction on appointment of legal heir of lunatic to be guardian of his person.

46. The legal heir of a lunatic shall not be appointed to be the guardian of the person of such lunatic unless the Court or the Deputy Commissioner, as the case may be, for reasons to be recorded in writing, considers that such an appointment is for the benefit of the lunatic.

Remuneration of managers and guardians.

47. A guardian of the person of a lunatic or a manager of his estate appointed under this chapter shall be paid such allowance, if any, as the Court or the Deputy Commissioner, as the case may be, thinks fit for his care and pains in the execution of his duties.

Duties of guardian.

48. (1) The person appointed to be guardian of a lunatic's person shall have the care of his person and maintenance.

(2) When a distinct guardian is appointed; the manager shall pay to the guardian such allowance as may be fixed by the District Court or the Deputy Commissioner, as the case may be, for the maintenance of the lunatic and such members of his family as are dependent on him for their maintenance.

**49.** (1) Every manager of the estate of a lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a lunatic, and may collect and pay all just claims, debts and liabilities due to or by the estate of the lunatic:

Powers of  
manager.

Provided that no manager so appointed shall without the permission of the Court—

(a) mortgage, charge, or transfer by sale, gift, exchange or otherwise any immovable property of the lunatic,

(b) lease any such property for a term exceeding five years.

Such permission may be granted subject to any condition or restriction which the Court thinks fit to impose.

(2) Before granting any such permission, the Court may cause notice of the application for such permission to be served on any relative or friend of the lunatic, and may make or cause to be made such inquiries as to the Court may seem necessary in the interests of the lunatic.

**50.** (1) Every person appointed by the District Court or by the Deputy Commissioner to be manager of the estate of a lunatic shall, within six months from the date of his appointment, deliver in Court or to the Deputy Commissioner, as the case may be, an inventory of the immovable property belonging to the lunatic and of all such money, or other movable property, as he may receive on account of the estate, together with a statement of all debts, due by or to the same.

Manager to  
furnish  
inventory  
and annual  
accounts.

(2) Every such manager shall also furnish to the Court or to the Deputy Commissioner annually, within three months of the close of the year an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands.

**51.** If any relative of the lunatic, or the Deputy Commissioner by petition to the Court, impugns the accuracy of the said inventory and statement, or of any annual account, the Court may summon the manager and inquire summarily into the matter and make such order thereon as it thinks fit; or the Court, at its discretion, may refer any such petition to any subordinate Court or to the Deputy Commissioner, if the manager was appointed by the Deputy Commissioner.

Proceedings  
if accuracy of  
inventory or  
accounts is  
impugned.

Payment into public treasury and investment of proceeds of estate.

**52.** All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the lunatic or of the estate, shall be paid into the public treasury on account of the estate, and shall be invested from time to time in any of the securities that may be authorized for this purpose by Government, unless the Court or the Deputy Commissioner, as the case may be, for reasons to be recorded in writing, directs that such sums be in the interest of the lunatic otherwise invested or applied.

Relative may sue for an account.

**53.** Any relative of a lunatic may with the leave of the District Court sue for an account from any manager appointed under this chapter, or from any such person after his removal from office or trust, or from his legal representative in case of his death, in respect of any estate then or formerly under his care or management or any sums of money or other property received by him on account of such estate.

Removal of managers and guardians.

**54.** (1) The District Court, for any sufficient cause, may remove any manager appointed by it and may appoint any other fit person in his place, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all money received or disbursed by him.

(2) The Court may also, for any sufficient cause, remove any guardian of the person of the lunatic appointed by it, and may appoint any other fit person in his place.

(3) The Deputy Commissioner, for any sufficient cause, may remove any manager of the estate of a lunatic or guardian of the person of a lunatic appointed by him and may appoint any other fit person in place of such manager or guardian; and the District Court, on the application of the Deputy Commissioner, may compel any manager removed under this section to make over the property and all accounts in his hands to his successor and to account to such successor for all money received or disbursed by him.

Penalty on manager for refusing to deliver accounts or property.

**55.** The District Court may impose a fine not exceeding five hundred rupees on any manager of the estate of a lunatic who wilfully neglects or refuses to deliver his accounts or any property in his hands within the time fixed by the Court and may realize such fine as if it were a sum due under a decree of the Court, and may also commit the recusant to the civil jail until he delivers such accounts or property.

56. (1) When any person has been found under this chapter to be of unsound mind, and it is subsequently shown to the District Court that there is reason to believe that such unsoundness of mind has ceased, such Court may make an order for inquiring whether such person is still of unsound mind and incapable of managing himself and his affairs.

Proceedings in lunacy to cease or to be set aside if Court finds that the unsoundness of mind has ceased.

(2) The inquiry shall, as far as may be, be conducted in the same manner as is prescribed in this chapter for an inquisition into the unsoundness of mind of an alleged lunatic, and if it is found that the unsoundness of mind has ceased, the Court shall order all proceedings in the lunacy to cease or to be set aside, on such terms and conditions as to the Court may seem fit.

57. An appeal shall lie to the High Court from any order made by a District Court, under this chapter.

Appeals.

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## PART IV.

### MISCELLANEOUS.

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## CHAPTER V.

### EXPENSE OF LUNATICS.

58. Any money in the possession of a lunatic found wandering at large may be applied by the Magistrate towards the payment of the cost of maintenance of the lunatic or of any other expenses incurred on his behalf, and any movable property found on the person of the lunatic may be sold by the Magistrate, and the proceeds thereof similarly applied.

Application of property in the possession of a lunatic found wandering.

59. If a lunatic detained in the asylum on a reception order made under section 12 or section 13 has an estate applicable to his maintenance, or if any person legally bound to maintain such lunatic has the means to maintain him, the authority which made the reception order may apply to the District Court within the local limits of the original jurisdiction of which the estate of the lunatic is situate or the person legally bound to maintain him resides, for an order for the payment of the cost of maintenance of the lunatic.

Application to Civil Court for order for the payment of cost of maintenance out of the lunatic's estate, or by person bound to maintain him.

Order of  
Court and  
enforcement  
thereof.

**60.** (1) The Court shall inquire into the matter in a summary way, and on being satisfied that such lunatic has an estate applicable to his maintenance, or that any person is legally bound to maintain and has the means of maintaining such lunatic, may make an order for the recovery of the cost of maintenance of such lunatic, together with the costs of the application out of such estate or from such person.

(2) Such order shall be enforced in the same manner, and shall be of the same force and effect and subject to the same appeal as a decree made by the said Court in a suit in respect of the property or person therein mentioned.

Saving of  
liability of  
relatives to  
maintain  
lunatic.

**61.** The liability of any relative or person to maintain any lunatic shall not be taken away or affected by any provision contained in this Regulation.

## CHAPTER VI.

### RULES.

Power of  
Government  
to make  
rules.

**62.** (1) Government may make rules for all or any of the following purposes, namely:—

- (a) to prescribe forms for any proceeding under this Regulation;
- (b) to prescribe places of detention and regulate the care and treatment of persons detained under section 7 or section 14;
- (c) to regulate the confinement, care, treatment and discharge of criminal lunatics;
- (d) to regulate the management of the asylum and the care and custody of the inmates thereof;
- (e) to prescribe the procedure to be followed by District Courts and Magistrates before a lunatic is sent to the asylum;
- (f) save as otherwise provided in this Regulation, generally to carry into effect the provisions of the Regulation.

(2) In making any rule under this section, Government may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

Publication  
of rules.

**63.** All rules made under section 62 shall be published in the official Gazette, and shall thereupon have effect as if enacted in this Regulation.

## CHAPTER VII.

## SUPPLEMENTAL PROVISIONS.

## 64. Any person who—

(a) otherwise than in accordance with the provision of this Regulation receives or detains a lunatic or alleged lunatic in the asylum, or

Penalty for improper reception or detention of lunatic.

(b) for gain detains two or more lunatics in any place not being the asylum,

shall be punishable with imprisonment which may extend to two years or with fine or with both.

65. The provisions of Chapter XLII of the Code of Criminal Procedure, 1904, shall, so far as may be, apply to bonds taken under this Regulation.

Provision as to bonds.

66. (1) When any sum is payable in respect of pay, pension, gratuity or other similar allowance to any person by Government and the person to whom the sum is payable is certified by a Magistrate to be a lunatic, the Government officer under whose authority such sum would be payable if the payee were not a lunatic may pay so much of the said sum as he thinks fit to the person having charge of the lunatic, and may pay the surplus, if any, or such part thereof as he thinks fit for the maintenance of such members of the lunatic's family as are dependent on him for maintenance.

Pension of lunatic payable by Government.

(2) Government shall be discharged of all liability in respect of any amounts paid in accordance with this section.

67. Subject to any rules, the forms set forth in the First Schedule with such variation as the circumstances of each case may require, shall be used for the respective purposes therein mentioned, and if used shall be sufficient.

Use of forms in schedule.

68. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Regulation.

Protection to persons acting under Regulation.

69. The officer in charge of the asylum may give effect to any order or warrant for the reception and detention of any lunatic made or issued by any Court or authority beyond the limits of Mysore notified by Government in this behalf in the official Gazette from time to time.

Power to give effect to warrants and orders of certain Courts outside Mysore.

70. The Government may make rules regarding the reception and detention in the asylum of lunatics whose reception and detention are provided for by section 69.

Power to make rules for reception of lunatics received from outside Mysore.

Orders under  
repealed  
enactments.

71. All orders for the detention of lunatics made and all undertakings given under any enactment hereby repealed shall have the same force and effect as if they had been made or given under this Regulation and by or to the authority empowered thereby in such behalf.

Repeal of  
enactments.

72. The enactments mentioned in the Second Schedule are repealed to the extent specified in the fourth column thereof.

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SCHEDULE I.

FORMS.

(See section 67).

FORM I.

(Application for Reception Order).

See sections 4 and 5.

In the matter of A. B. [1], residing at  
by occupation , son of ; a person  
alleged to be a lunatic.

To

District Magistrate of  
[or Sub-Divisional Magistrate of  
or Magistrate specially empowered under Regulation, I  
of 1916

for

].

The petition of C. D. [1], residing at , by occupation  
son of , in the town of [or sub-division of  
in the district of ].

1. I am [2] years of age.

2. I desire to obtain an order for the reception of A. B. as a lunatic  
in the lunatic asylum situate at Bangalore.

3. I last saw the said A. B. at on the  
[3] day of

4. I am the [4] of the said A. B.

[or if the petitioner is not a relative of the patient state as follows.]

I am not a relative of the said A. B. The reasons why this petition  
is not presented by a relative are as follows : [State them].

The circumstances under which this petition is presented by me  
are as follows : [State them].

5. The persons signing the medical certificates which accompany  
the petition are [5].

6. A statement of particulars relating to the said A. B. accom-  
panies this petition.

7. [If that is the fact.] An application for an inquiry into the  
mental capacity of the said A. B. was made to the on the  
and a certified copy of the order made on the said  
petition is annexed hereto.

[Or if that is the fact.] No application for an inquiry into the  
mental capacity of the said A. B. has been made previous to this  
application.

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[1] Full name, caste and titles.

[2] Enter the number of completed years. The petitioner must be at least  
eighteen or twenty-one whichever is the age of majority under the law to  
which the petitioner is subject.

[3] A day within fourteen days before the date of the presentation of the petition  
is requisite.

[4] Here state the relationship with the patient.

[5] Here state whether either of the persons signing the medical certificate is a  
relative, partner or assistant of the lunatic or of the petitioner and, if a  
relative of either, the exact relationship.



The petitioner therefore prays that a reception order may be made in accordance with the foregoing statement.

(Sd.) C. D.

The statements contained or referred to in paragraphs are true to my knowledge, the other statements are true to my information and belief.

(Sd.) C. D.

*Dated*

*Statement of particulars.*

*[If any of the particulars in this statement is not known, the fact to be so stated].*

The following is a statement of particulars relating to the said A. B.

Name of patient at length.

Sex and age.

Married, single or widowed.

Previous occupation.

Caste and religious belief, as far as known.

Residence at or immediately previous to the date thereof.

Names of any near relatives to the patient who are alive.

Whether this is first attack of lunacy.

Age (if known) on first attack.

When and where previously under care and treatment as a lunatic.

Duration of existing attack.

Supposed cause.

Whether the patient is subject to epilepsy.

Whether suicidal.

Whether the patient is known to be suffering from phthisis or any form of tubercular disease.

Whether dangerous to others, and in what way.

Whether any near relative (stating the relationship) has been affected with insanity.

Whether the patient is addicted to alcohol, or the use of opium, ganja, charas, bhang, cocaine or other intoxicant.

[The statements contained or referred to in paras are true to my knowledge. The other statements are true to my information and belief].

*[Signature by person  
making the statement].*

## FORM 2.

### *Reception Order on Petition.*

*(See sections 6, 9.)*

I, the undersigned E. F., being the District Magistrate of \_\_\_\_\_ or the Sub-Divisional Magistrate of \_\_\_\_\_ or a Magistrate of the first class specially empowered by Government to perform the functions of a Magistrate under Regulation I of 1916] upon the petition of C. D.

of (1) in the matter of A. B., (1) a lunatic, accompanied by the medical certificates of G. H., a medical officer, and of J. K., a medical practitioner [or medical officer], under the said Regulation, hereto annexed, hereby authorize you to receive the said A. B. into your asylum. And I declare that I have [or have not] personally seen the said A. B. before making this order.

(Sd.) E. F.

(Designation as above).

To (2)

### FORM 3.

#### *Medical Certificate.*

(See sections 15, 16.)

In the matter of A. B. of [1] in the town of  
[or the sub-division of in the district of ] an alleged  
lunatic.

I, the undersigned C. D., do hereby certify as follows :

1. I am a gazetted medical officer [or a medical practitioner declared by a holder of [2] [or declared by Government to be a medical officer under Regulation I of 1916].  
Government to be a medical practitioner under Regulation I of 1916].  
and I am in the actual practice of the medical profession.

2. On the day of 19 at [3] in the Town of  
[or the sub-division of in the district of ]  
[separately from any other practitioner] [4], I personally examined the  
said A. B. and came to the conclusion that the said A. B. is a lunatic  
and a proper person to be taken charge of and detained under care and  
treatment.

3. I formed this conclusion on the following grounds, viz.:—

(a) Facts indicating insanity observed by myself, viz.:—

(b) Other facts (if any) indicating insanity communicated to  
me by others, viz.:—

*Here state the information and from whom.*

(Sd.) C. D.

(Designation as above).

(1) Address and description.

(2) To be addressed to the officer or person in charge of the asylum.

[1] Insert residence of patient.

[2] Insert qualification to practise medicine and surgery registrable in the  
United Kingdom.

[3] Insert place of examination.

[4] Omit this where only one certificate is required.

## FORM 4.

*Reception Order in case of wandering or dangerous lunatics or lunatics not under proper control or cruelly treated sent to the asylum.*

(See sections 12, 13.)

I. C. D., the District Magistrate of [or the Sub-Divisional Magistrate of or a Magistrate specially empowered by Government under Regulation I of 1916] having caused A. B. to be examined by E. F., a Medical Officer under the Mysore Lunacy Regulation, 1916, and being satisfied that A. B. [describing him] is a lunatic who was wandering at large [or is a person dangerous by reason of lunacy] [or is a lunatic not under proper care and control or is cruelly treated or neglected by the person having the care or charge of him] and a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said A. B. into your asylum.

(Sd.) C. D.

(Designation as above).

Dated the

To the Officer-in-charge of the asylum at Bangalore.

## FORM 5.

*Bond on the making over of a lunatic to the care of relative or friend.*

(See sections 12, 13.)

Whereas A. B., son of , inhabitant of , has been brought up before C. D., the District Magistrate of , [or a Sub-Divisional Magistrate of the first class specially empowered under Regulation I of 1916] and is a lunatic who is believed to be dangerous [or deemed to be a lunatic who is not under proper care and control or is cruelly treated or neglected by the person having the charge of him] and whereas I, E. F., son of , inhabitant of , have applied to the Magistrate that the said A. B. may be delivered to my care :

I, E. F., abovenamed hereby bind myself that on the said A. B. being made over to my care, I will have the said A. B. properly taken care of and prevented from doing injury to himself or to others : and in case of my making default therein, I hereby bind myself to forfeit to the Dewan of Mysore, the sum of rupees

Dated this day of 19 .

(Sd.) E. F.

(Where a bond with sureties is to be executed add)—We do, hereby declare ourselves sureties for the abovenamed E. F. that he will, on the aforesaid A. B. being made over to his care, have the said A. B. properly taken care of and prevented from doing injury to himself or to

others ; and in case of the said E. F. making default therein, we bind ourselves, jointly and severally, to forfeit to the Dewan of Mysore, the sum of rupees,

Dated this                      day of                      19

(Signature).

FORM 6.

*Bond on the discharge of a lunatic from the asylum on the undertaking of relative or friend to take due care.*

(See section 30.)

Whereas A. B., son of                      , inhabitant of                      , is a lunatic who is now detained in the lunatic asylum at Bangalore, under an order made by C. D., the District Sub-Divisional Magistrate of (or a Magistrate of the first class specially empowered under Regulation I of 1916) under section 13 (or section 14) of Regulation, I of 1916, and whereas I, E. F., son of                      , inhabitant of                      have applied to the said Magistrate that the said A. B. may be delivered to my care and custody :

I hereby bind myself that on the said A. B. being made over to my care and custody, I will have him properly taken care of and prevented from doing injury to himself or to others ; and in case of my making default therein, I hereby bind myself to forfeit to the Dewan of Mysore, the sum of rupees

Dated this                      day of                      19 .

(Sd.) E. F.

(Where a bond with sureties is to be executed add)—We do hereby declare ourselves sureties for the abovenamed E. F. that he will, on the aforesaid A. B. being delivered to his care and custody, have the said A. B. properly taken care of and prevented from doing injury to himself or to others ; and in case of the said E. F. making default therein, we bind ourselves, jointly and severally, to forfeit to the Dewan of Mysore, the sum of rupees

Dated this                      day of                      19

(Signature).

## SCHEDULE II.

## ENACTMENTS REPEALED.

*(See section 72.*

1	2	3	4
Year	No.	Short title	Extent of Repeal
1872 ..	..	Rules relating to the custody and guardianship of minors, idiots and other disqualified persons in the Province of Mysore published in Notification by the Government of India. Foreign Department, No. 75—J., dated the 25th April 1872.	So much as has not been repealed.
1874 ..	..	Rules for the reception and detention of lunatics in asylums in the Province of Mysore published in Chief Commissioner's Notification No. 141, dated the 31st July 1874.	The whole.
1904 ..	11	Code of Criminal Procedure, 1904.	Section 471, sub-section (2) and section 472.

## REGULATION No. II OF 1916.

*(Received the assent of His Highness the Maharaja  
on the 25th day of February 1916).*

**A Regulation to further amend the Mysore  
Land Revenue Code, 1888.**

Whereas it is expedient further to amend the Mysore Land Revenue Code, 1888; His Highness the Maharaja is pleased to enact as follows:—

1. In section 181 for the words “shall be forfeited to Government” the words “shall, at the discretion of the Deputy Commissioner, be liable to be forfeited to Government either wholly or in part” shall be substituted. Amendment  
of section  
181.

2. For the words “sale which is eventually made” occurring in section 182, the words “resale which is held by reason of the purchaser’s default” shall be substituted. Amendment  
of section  
182.

3. In para 2 of section 185 of the Code, after the words “after recording his reasons in writing” the words “and on such conditions as he may deem proper concerning the payment of interest on the money deposited or other compensation” shall be inserted. Amendment  
of section 185.

4. After the words “Kayamgutta village” occurring in the third para of section 236 the words “or where there are more holders than one of such village, on such application by so many of them as hold in the aggregate not less than three-fourths of the shares in such village” shall be added. Amendment  
of section  
236.

## REGULATION No. IV OF 1916.

(Received the assent of His Highness the Maharaja  
on the 30th day of June 1916).

**A Regulation further to amend the Mysore  
Stamp Regulation, 1900.**

Whereas it is expedient further to amend the Mysore Stamp Regulation, 1900; His Highness the Maharaja is pleased to enact as follows:—

Amendment  
of clause (b) of  
Article 12 of  
Schedule I of  
the Regula-  
tion.

In Article No. 12 of Schedule I of the Mysore Stamp Regulation, 1900, for clause (b) the following shall be substituted, namely:—

			If drawn singly	If drawn in set of two, for each part of the set	If drawn in set of three for each part of the set
			Rs. a. p.	Rs. a. p.	Rs. a. p.
(b) Where payable otherwise than on demand but not more than one year after date or sight—					
	Rs.				
if the amount of the bill or note does not exceed .. .. .	200		0 3 0	0 2 0	0 1 0
if it exceeds Rs. 200 and does not exceed .. .. .	400		0 6 0	0 3 0	0 2 0
Do 400 do .. .. .	600		0 9 0	0 5 0	0 3 0
Do 600 do .. .. .	800		0 12 0	0 6 0	0 4 0
Do 800 do .. .. .	1,000		0 15 0	0 8 0	0 5 0
Do 1,000 do .. .. .	1,200		1 2 0	0 9 0	0 6 0
Do 1,200 do .. .. .	1,600		1 8 0	0 12 0	0 8 0
Do 1,600 do .. .. .	2,500		2 4 0	1 2 0	0 12 0
Do 2,500 do .. .. .	5,000		4 8 0	2 4 0	1 8 0
Do 5,000 do .. .. .	7,500		6 12 0	3 6 0	2 4 0
Do 7,500 do .. .. .	10,000		9 0 0	4 8 0	3 0 0
Do 10,000 do .. .. .	15,000		13 8 0	6 12 0	4 8 0
Do 15,000 do .. .. .	20,000		18 0 0	9 0 0	6 0 0
Do 20,000 do .. .. .	25,000		22 8 0	11 4 0	7 8 0
Do 25,000 do .. .. .	30,000		27 0 0	13 8 0	9 0 0
and for every additional Rs. 10,000 or part thereof in excess of .. .. .	30,000		9 0 0	4 8 0	3 0 0

**The Criminal Tribes Regulation.**  
**REGULATION No. VII OF 1916.**  
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## REGULATION No. VII OF 1916.

*(Received the assent of His Highness the Maharaja on the 14th day of December 1916).*

### A Regulation for the Registration, Surveillance and Control of Criminal Tribes.

Whereas it is expedient to provide for the registration, surveillance and control of criminal tribes; His Highness the Maharaja is pleased to enact as follows:—

#### PRELIMINARY.

1. (1) This Regulation may be called the Criminal Tribes Regulation, 1916; Short title  
extent and  
commence-  
ment.
- (2) It extends to the whole of Mysore; and
- (3) It shall come into force at once.
2. In this Regulation, unless there is anything repugnant in the subject or context, Definitions.
  - (1) "criminal tribe" means a tribe, gang or class of persons declared to be a criminal tribe by a notification under section 3;
  - (2) "prescribed" means prescribed by rules under this Regulation; and
  - (3) "tribe," "gang" or "class" includes any part or members of a tribe, gang or class.

#### NOTIFICATION OF CRIMINAL TRIBES.

3. If the Government has reason to believe that any tribe, gang or class of persons is addicted to the systematic commission of non-bailable offences, it may, by notification in the official Gazette, declare that such tribe, gang or class is a criminal tribe for the purposes of this Regulation. Power to  
declare any  
tribe, gang or  
class a  
criminal  
tribe.

#### REGISTRATION OF MEMBERS OF CRIMINAL TRIBES.

4. The Government may direct the District Magistrate to make, or to cause to be made, a register of the Registration  
of members  
of criminal  
tribes.

members of any criminal tribe [a] within his district.

Procedure  
in making  
register.

5. Upon receiving such direction, the District Magistrate shall publish notice in the prescribed manner at the place where the register is to be made and at such other places as he may think fit, calling upon all the members of such criminal tribe, [b]—

(a) to appear at a time and place therein specified before a person appointed by him in this behalf ;

(b) to give to that person such information as may be necessary to enable him to make the register ; and

(c) to allow their finger impressions to be recorded :

Provided that the District Magistrate may exempt any individual member of such criminal tribe [c] from registration [d] and may cancel any such exemption [d].

Charge of  
register.

6. The register, when made, shall be placed in the keeping of the Superintendent of Police, who shall, from time to time, report to the District Magistrate any alterations which ought in his opinion to be made therein, either by way of addition or erasure.

Alterations  
in register.

7. (1) After the register has been placed in the keeping of the Superintendent of Police, no person shall be added to the register, and no registration shall be cancelled except by, or by the order in writing of, the District Magistrate.

(2) Before the name of any person is added to the register under this section, the Magistrate shall give notice in the prescribed manner to the person concerned—

(a) to appear before him or a person appointed by him in this behalf at a time and place therein specified ;

(b) to give him or such person such information as may be necessary to enable him to make the entry ; and

(c) to allow his finger impressions to be recorded.

Complaints  
of entries in  
register.

8. Any person deeming himself aggrieved by any entry made, or proposed to be made, in such register either when the register is first made or subsequently, may complain to the District Magistrate against such entry, and the Magistrate shall retain such person's name on the

[a] The words "or of any part thereof" were omitted by section 1 of Regulation X of 1925.

[b] The words "or such part thereof as is directed to be registered" were omitted by section 2 of Regulation X of 1925.

[c] The words "or part thereof" were omitted by section 2 of Regulation X of 1925.

[d] Added by section 2 of Regulation X of 1925.

register, or enter it therein, or erase it therefrom, as he may see fit.

9. The District Magistrate or any officer empowered by him in this behalf may at any time order the finger impressions of a registered member of a criminal tribe to be taken.

Power to take finger impressions at any time.

[a] 10. (1) The Government may, by notification in the official Gazette, issue in respect of any criminal tribe either or both of the following directions, namely, that every registered member thereof shall, in the prescribed manner,—

Members of criminal tribes to report themselves or notify residence.

(a) report himself at fixed intervals;

(b) notify his place of residence and any change or intended change of residence, and any absence or intended absence, from his residence.

(2) Where a registered member of a criminal tribe in respect of which the Government has issued a notification under sub-section (1) changes his place of residence to a district other than that in which he has been registered, or is for the time being in any district other than that in which he has been registered, the provisions of this Regulation and of the rules made thereunder shall apply to him as if, in pursuance of a direction made under section 4, he had been registered in that district.

(3) Where any such registered member changes his place of residence to a district other than that in which he has been registered, the relevant entry in the register shall be transferred to the Superintendent of Police of that district. [a]

#### RESTRICTION OF MOVEMENTS OF CRIMINAL TRIBES.

11. (1) If the Inspector-General of Police considers that it is expedient that any criminal tribe should be—

(a) restricted in its movements to any specified area, or

(b) settled in any place of residence, he may report the case for the orders of Government.

(2) Every such report shall state—

(i) the nature and the circumstances of the offences, in which the members of the criminal tribe are believed to have been concerned, and the reasons for such belief;

Procedure when deemed expedient to restrict movements of or settle criminal tribes.

[a] Substituted for the original by section 1 of Regulation XIV of 1933.

(ii) whether such criminal tribe follows any lawful occupation and whether such occupation is, in the opinion of the Inspector-General of Police, the real occupation of such criminal tribe, or a pretence for the purpose of facilitating the commission of crimes, and the grounds on which such opinion is based ;

(iii) the area to which it is proposed to restrict the movements of such criminal tribe, or the place of residence in which it is proposed to settle it ; and

(iv) the manner in which it is proposed that such criminal tribe shall earn its living within the restricted area or in the settlement, and the arrangements which are proposed to be made therefor.

Notification  
restricting  
movements  
of or settling,  
tribes.

12. If, on the consideration of any such report, the Government is satisfied—

(a) that it is expedient to restrict the movements of such criminal tribe, or to settle in a place of residence, and

(b) that the means by which such criminal tribe shall earn its living are adequate,

the Government may publish in the official Gazette a notification declaring that such criminal tribe shall be restricted in its movements to the area specified or shall be settled in the place of residence specified.

Power to vary  
specified area  
or place of  
residence.

13. The Government may at any time by a like notification vary the terms of any notification published by it under section 12 by specifying another area to which the movements of the criminal tribe shall be restricted, or another place of residence in which it shall be settled [a] and the District Magistrate of a district, may, by order in writing, vary any notification made under section 12 or under this section by directing the restriction of such criminal tribe to another area, or, as the case may be, its settlement in another place, in the same district.[a]

Verification  
of presence of  
members of  
tribe within  
prescribed  
area or place  
of residence.

14. Every registered member of a criminal tribe, whose movements have been restricted or which has been settled in a place of residence, shall attend at such place and at such time and before such person as may be prescribed in this behalf.

Transfer of  
register in  
certain cases

15. When the area to which the movements of a criminal tribe or any members thereof are restricted, or the place of residence in which a criminal tribe is settled, is situated in a district other than that in which the register mentioned in section 4 was prepared, the register shall be

[a] Added by section 3 of Regulation X of 1925.

transferred to the Superintendent of Police of the district in which the said area is situated, and [a] all the provisions of this Regulation and the rules made thereunder shall apply as if such criminal tribe had been registered in that district.[a]

#### SETTLEMENTS AND SCHOOLS.

16. The Government may establish industrial, agricultural or reformatory settlements and may place therein any criminal tribe [b] in respect of which a notification has been published under section 12 :

Power to place tribe in settlement.

[c] Provided that no criminal tribe shall be placed in a settlement unless the necessity for so placing it has been established to the satisfaction of Government after an enquiry held by such authority and in such manner as may be prescribed. [e]

17. (1) The Government may establish industrial, agricultural or reformatory schools for children and may separate and remove from their parents or guardians and place in such schools the children of members of any criminal tribe in respect of which a notification has been published under section 12.

Powers to place children in schools and to apprentice them.

(2) For the purposes of this section the term "children" includes all persons under the age of eighteen and above the age of six years.

(3) The decision of the District Magistrate as to the age of any person for the purposes of this section shall be final.

18. The Government or any officer authorized by Government in this behalf may at any time, by general or special order, direct any person who may be in any industrial, agricultural or reformatory settlement or school in the State,—

Power to discharge or remove persons from settlement or school.

(a) to be discharged, or

(b) to be removed to some other [d] settlement or school in the State.

19. When any tribe, gang or class has been declared as a criminal tribe outside Mysore, the Government may, by a notification in the official Gazette, declare that the provisions of section 20 shall apply to such tribe, gang or class.

Tribe, gang or class declared criminal outside Mysore.

[a] Substituted for the original by section 4 of Regulation X of 1925.

[b] The words "or any part thereof" were omitted by section 5 of Regulation X of 1925.

[c] Added by section 5 of Regulation X of 1925.

[d] The word "like" was omitted by section 6 of Regulation X of 1925.

Procedure  
when any  
tribe or gang  
or class  
declared  
criminal  
under section  
19 is found in  
Mysore.

20. (1) No tribe, gang or class or any member thereof of declared criminal under section 19 shall enter Mysore without a written permit signed by the Inspector-General of Police.

(2) Any Police officer not below the rank of an officer in charge of a Police Station may direct any person found in Mysore contrary to the provisions of sub-section (1) by a written order to leave Mysore within a week.

(3) Any person found in Mysore after the period provided for in sub-section (2) shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees or with both, and shall also be liable to be sent out of Mysore on the expiry of the sentence.

#### RULES.

Power to  
make rules.

21. (1) The Government may make rules to carry out the purposes and objects of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for and regulate—

(a) the form and contents of the register prescribed in section 4 ;

(b) the mode in which the notice prescribed in section 5 shall be published and the means by which the persons whom it concerns, and the village headmen, village watchmen and land-owners or occupiers of the village in which such persons reside, or the agents of such land-owners or occupiers, shall be informed of its publication ;

(c) the addition of names to the register and the erasure of names therein, and the mode in which the notice prescribed in section 7 shall be given ;

(d) the mode in which persons mentioned in section 10 shall report themselves, or notify their residence or any change or intended change of residence or any absence or intended absence ;

(e) the nature of the restrictions to be observed by persons whose movements have been restricted by notification under section 12 or section 13 ;

- (ee) [a] the circumstances in which members of a criminal tribe shall be required to possess and produce for inspection certificates of identity, and the manner in which such certificates shall be granted ; [a]
- (f) the conditions as to holding passes under which persons may be permitted to leave the place in which they are settled or confined or the area to which their movements are restricted ;
- (g) the conditions to be inserted in any such pass in regard to—
  - (i) the places where the holder of the pass may go or reside ;
  - (ii) the persons before whom, from time to time, he shall be bound to present himself ; and
  - (iii) the time during which he may absent himself ;
- (h) the place and time at which and the persons before whom members of a criminal tribe shall attend in accordance with the provisions of section 14 ;
- [b] (hh) the authority by whom and the manner in which the inquiry referred to in section 16 shall be held ; [b]
- (i) the inspection of the residences and villages of any criminal tribe ;
- (j) the terms upon which registered members of criminal tribes may be discharged from the operation of this Regulation ;
- (k) the management, control and supervision of industrial, agricultural or reformatory settlements and schools ;
- (l) the works on which, and the hours during which, persons placed in an industrial, agricultural or reformatory settlement shall be employed, the rate at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour ;
- (m) the discipline to which persons endeavouring to escape from any industrial, agricultural or reformatory settlement or school, or otherwise offending against the rules for the

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[a] Inserted by section 7 (a) of Regulation X of 1925.

[b] Inserted by section 7 (b) of Regulation X of 1925.



time being in force, shall be subject, the periodical visitation of such settlement or school and the removal from it of such persons as it shall seem expedient to remove; and

(n) the mode in which the permits specified in section 20 may be obtained and the conditions which may be entered in such permit with regard to—

- (1) the place to which the holder of the permit may go or in which he may reside,
- (2) the persons to whom he should report himself from time to time, and
- (3) the period for which he may reside in Mysore.

#### PENALTIES AND PROCEDURE.

Penalties for failure to comply with terms of notice under section 5 or 7.

22. Whoever, being a member of a criminal tribe, without lawful excuse, the burden of proving which shall lie upon him,—

- (a) fails to appear in compliance with a notice issued under section 5 or section 7, or
- (b) intentionally omits to furnish any information required under those sections, or
- (c) when required to furnish information under either of those sections, furnishes as true any information which he knows or has reason to believe to be false, or
- (d) refuses to allow his finger impressions to be taken,

may be arrested without warrant, and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Penalties for breach of rules.

23. (1) Whoever, being a registered member of a criminal tribe, violates a rule made under clause (e), clause (f) or clause (g) of section 21 shall be punishable with imprisonment for a term which may extend,—

- (a) on a first conviction, to one year,
- (b) on a second conviction, to two years, and
- (c) on any subsequent conviction, to three years, or with [a] fine which may extend to five hundred rupees, or with both.[a]

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[a] Added by Section 8 (a) of Regulation X of 1925.

(2) Whoever, being a registered member of a criminal tribe, violates [a] any other rule made under section 21 shall be punishable,

(a) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees or with both, and

(b) on any subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(3) [b] Any person who commits or is reasonably suspected of having committed an offence made punishable by this section which is not a cognizable offence within the meaning of the Code of Criminal Procedure, 1904, may be arrested without a warrant by any officer in charge of a police station or by any police officer not below the rank of a sub-inspector. [b]

24. (1) Whoever, being a member of any criminal tribe, and, having been convicted of any of the offences under the Indian Penal Code specified in the Schedule, is [c] convicted of the same or any other offence specified in the said Schedule, shall, in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, be punished,—

Enhanced punishment for certain offences by members of criminal tribe after previous conviction.

(a) on a second conviction, with imprisonment for a term of not less than seven years, and

(b) on a third conviction, with transportation for life.

[d] Provided that not more than one of any such convictions which may have occurred before the 14th day of December 1916 shall be taken into account for the purposes of this sub-section.[d]

(2) Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code or any other law.

25. Whoever, being a registered member of any criminal tribe, is found in any place under such circumstances as to satisfy the Court—

Punishment for registered members of criminal tribe found under suspicious circumstances.

(a) that he was about to commit, or aid in the commission of, theft or robbery, or

[a] Substituted for the original by section 8 (b) of Regulation X of 1925.

[b] Added by Section 8 (c) of Regulation X of 1925.

[c] The word "hereafter" was omitted by Section 2 of Regulation XIV of 1933.

[d] Added by Section 2 of Regulation XIV of 1933.

- (b) that he was waiting for an opportunity to commit theft or robbery, shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine which may extend to one thousand rupees.

Arrest of  
registered  
person found  
beyond  
prescribed  
limits.

26. (1) Whoever, being a registered member of a criminal tribe,—

- (a) is found in any part of Mysore, beyond the area, if any, prescribed for his residence, without the prescribed pass, or in a place or at a time not permitted by the conditions of his pass, or

- (b) escapes from an industrial, agricultural or reformatory settlement or school,

may be arrested without warrant by any police officer, village headman or village watchman, and taken before a Magistrate, who, on proof of the facts, shall order him to be removed to the district in which he ought to have resided or the settlement or school from which he has escaped (as the case may be), there to be dealt with in accordance with this Regulation or any rules made thereunder.

(2) The rules for the time being in force for the removal of prisoners shall apply to all persons removed under this section or under any other provision of this Regulation :

Provided that an order from the Government or from the Inspector-General of Prisons shall not be necessary for the removal of such persons.

Duties of  
village  
headmen,  
village  
watchmen  
and owners or  
occupiers of  
land to give  
information.

27. (1) Every village headman and village watchman in a village in which any persons belonging to a criminal tribe reside, and every owner or occupier of land on which any such persons reside or the agent of any such owner or occupier, shall forthwith communicate to the officer in charge of the nearest police station any information which he may obtain of :—

- (a) the failure of any such person to appear and give information as directed in section 5 ; or  
(b) the departure of any registered member of a criminal tribe from such village or from such land (as the case may be).

(2) Every village headman and village watchman in a village, and every owner or occupier of land or the

agent of such owner or occupier, shall forthwith communicate to the officer in charge of the nearest police station any information which he may obtain of the arrival at such village or on such land (as the case may be) of any persons who may reasonably be suspected of belonging to any criminal tribes.

28. Any village headman, village watchman, owner or occupier of land or the agent of such owner or occupier, who fails to comply with the requirements of section 27, shall be deemed to have committed an offence punishable under the first part of section 176 of the Indian Penal Code.

Penalty for  
breach of  
such duties.

### SUPPLEMENTAL.

28A. [a] The Government if it is satisfied that adequate provision has been made by the law of any Province of British India, or any State in India for the restriction of the movements or the settlement in a place of residence of persons such as are referred to in section 3, and for securing the welfare of persons so restricted or settled, may, with the consent of the Government of such Province or State, direct the removal to that Province or State of any criminal tribe for the time being in Mysore, and may authorize the taking of all measures necessary to effect such removal, provided that no person shall be so removed if the Government is satisfied that he is a subject of His Highness the Maharaja.

28B. The reference to a criminal tribe in sections 4, 5, 14, 17 and 28A shall be deemed to be references to a criminal tribe or any part thereof and the like references in sections 11, 13 and 16 shall be deemed to be references to a criminal tribe or any part or member thereof.[a].

29. No Court of Justice shall question the validity of any notification published under the provisions of section 3, section 12 or section 13 on the ground that the provisions hereinbefore contained or any of them have not been complied with, or entertain in any form whatever the question whether they have been complied with; but every such notification shall be conclusive proof that it has been issued in accordance with law.

Bar of  
jurisdiction  
of Courts in  
questions  
relating to  
notifications  
under  
sections 3, 12  
and 13.

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[a] Inserted by Section 9 of Regulation X of 1925.

## THE SCHEDULE.

(See section 24.)

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  - 460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.
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## REGULATION No. VIII OF 1916.

*(Received the assent of His Highness the Maharaja  
on the 14th day of December 1916.)*

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**A Regulation further to amend the Mysore  
Land Revenue Code, 1888.**

Whereas it is expedient further to amend the Mysore Land Revenue Code, 1888; His Highness the Maharaja is pleased to enact as follows:—

Substitution  
of a new  
section for  
section 54 of  
the Regula-  
tion.

For Section 54 of the Regulation, the following new section shall be substituted, *viz.*:—

Land  
Revenue a  
paramount  
charge on  
land.

“54. Arrears of land revenue due on account of land by any landholder shall be a paramount charge on the holding and every part thereof, failure in payment of which shall make the occupancy or alienated holding together with all rights of the occupant or holder over all trees, crops, buildings and things attached to the land, or permanently fastened to anything attached to the land liable to forfeiture, whereupon the Deputy Commissioner may levy all sums in arrear by sale of the occupancy or alienated holding, or may otherwise dispose of such occupancy or alienated holding under rules or orders made in this behalf under section 233, and such occupancy or alienated holding when disposed of, whether by sale as aforesaid, or by transfer to another person or, otherwise howsoever, except by restoration to the defaulter, shall, unless the Deputy Commissioner otherwise directs, be deemed to be freed from all tenures, rights, incumbrances and equities theretofore created by the occupant or holder or any of his predecessors in title or in anywise subsisting as against such occupant or holder.”

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## REGULATION No. IX OF 1916.

*(Received the assent of His Highness the Maharaja on the  
22nd day of December 1916.)*

**A Regulation to amend the Law relating to  
Government and other Provident Funds.**

Whereas it is expedient to amend the law relating to Government and other Provident Funds; His Highness the Maharaja is pleased to enact as follows:—

1. (1) This Regulation may be called the Provident Funds Regulation, 1916. Title, extent and commencement.

(2) It extends to the whole of Mysore.

(3) It shall come into force at once.

2. In this Regulation,

(1) "Provident Fund" means a fund in which the subscriptions or deposits of any class or classes of employees are received and held on their individual accounts, and includes any contributions credited in respect of, and any interest accruing on, such subscriptions, or deposits under the rules of the Fund: Definitions.

(2) "Government Provident Fund" means a Provident Fund constituted by the authority of Government for any class or classes of its employees:

(3) "Compulsory deposit" means a subscription or deposit which is not repayable on the demand, or at the option of the subscriber or depositor and includes any contribution which may have been credited in respect of, and any interest or increment which may have accrued on, such subscription or deposit under the rules of the Fund.

3. When a subscriber to, or depositor in, any Government Provident Fund, dies, the officer or person whose duty it is to make payment of such sum may pay it, Payment from Government on death of subscriber or depositor.

(a) to any person entitled to receive it according to the rules of the Fund, or, in the absence of any rule of the Fund to the contrary, to any person nominated in writing by the subscriber or depositor to receive it, and registered in the office of the Fund during his life time,

(b) in default of any such person as aforesaid, to the person who produces a succession certificate or probate



or letters of administration obtained under the law in force claiming to be entitled to receive such sum, provided that where the sum payable does not exceed one thousand rupees, payment may be made to such person whom the officer or the person making the payment after reasonable enquiry finds to be entitled to receive it.

Protection to  
deposits and  
other sums in  
certain cases.

4. (1) Compulsory deposits in any Government Provident Fund shall not be liable to attachment under any decree or order of a Court of Justice in respect of any debt or liability incurred by a subscriber to, or depositor in, any such Fund and a Receiver appointed under the Mysore Insolvency Regulation, 1911, shall not be entitled to, or have any claim on, any such compulsory deposit.

(2) Any sum standing to the credit of any subscriber to, or depositor in, any such Fund at the time of his decease and payable under the rules of the Fund or under this Regulation, to the widow or the children, or partly to the widow and partly to the children, of the subscriber or depositor, or to such person as may be authorized by law to receive payment on her or their behalf, shall vest in the widow or the children, or partly in the widow and partly in the children as the case may be, free from any debt or other liability incurred by the deceased, or incurred by the widow or by the children, or by any one or more of them, before the death of such subscriber or depositor.

Protection for  
anything  
done in good  
faith under  
this Regula-  
tion.

5. No suit or other legal proceeding shall lie against any person in respect of anything done or in good faith intended to be done in pursuance of the provisions of this Regulation.

Power to  
extend  
Regulation  
to other  
Provident  
Funds.

6. Government may, in its discretion, by notification in the official Gazette, extend the provisions of this Regulation to any Provident Fund established for the benefit of its employees by any company which administers a Railway or Tramway in Mysore under contract with Government or for employees under a local authority, or for any employees in any aided Educational Institution or in a Muzrai Institution as defined in the Mysore Muzrai Regulation, VI of 1913, or in any company registered according to law.

## REGULATION No. X OF 1916.

*(Received the assent of His Highness the Maharaja on the 22nd day of December 1916.)*

**A Regulation to amend the Mysore  
Tramways Regulation, 1906.**

Whereas it is expedient to amend the Mysore Tramways Regulation, 1906; His Highness the Maharaja is pleased to enact as follows:—

After section 47 of the Regulation the following new section shall be inserted as section 47A:

Addition of a new section after Section 47.

“47A. (1) Notwithstanding anything contained in this Regulation, it shall be lawful for the Government at any time—

Special provision in regard to tramways constructed by Government.

- (a) to construct a tramway within any area to be worked by steam or other mechanical or electrical power;
- (b) to retain the management and maintenance of any such tramway, or to entrust the same in whole or in part to any agency it thinks fit, or to resume the same from such agency;
- (c) to prescribe, by notification in the official Gazette, rules having the force of law, for the proper management and maintenance of any such tramway and for the regulation of all matters and things connected therewith, and to affix a penalty not exceeding two hundred rupees for the infringement of any such rule.

(2) The provisions of the preceding sections of this Regulation shall not apply to any such tramway as is mentioned in sub-section (1) except to the extent, if any, to which the same may be applied by Government from time to time, by notification published in the official Gazette, and subject to such modifications, if any, as may be directed in such notification.”

## REGULATION No. XI OF 1916.

*(Received the assent of His Highness the Maharaja on the  
22nd day of December 1916.)*

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**A Regulation to amend the Mysore Land  
Acquisition Regulation, 1894.**

Whereas it is expedient to amend the Mysore Land Acquisition Regulation, 1894; His Highness the Maharaja is pleased to enact as follows:—

Amendment  
of sub-section  
(c) of section  
3.

In sub-section (c) of section 3 of the Regulation, the words “the Assistant Commissioner in charge of a Revenue Sub-Division and” shall be inserted after the word “includes.”

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## REGULATION No. XII OF 1916.

*(Received the assent of His Highness the Maharaja on the  
22nd day of December 1916.)*

### A Regulation to amend the Tank Panchayet Regulation.

Whereas it is expedient to amend the Tank Panchayet Regulation, 1911; His Highness the Maharaja is pleased to enact as follows:—

1. In sub-section (2) of section 2 of the Regulation for the words “not less than Rs. 300 and shall also include,” the words “more than Rs. 300 and includes” shall be substituted. Amendment  
of sub-section  
(2) of section  
2.

2. For section 16, paragraphs (1) and (2), the following section shall be substituted:— Amendment  
of paragraphs  
(1) and (2) of  
section 16.

“16 (1) With the approval of a majority of not less than two-thirds of the raiyats and holding in the aggregate not less than half the occupied area of wet lands under the tank, a Tank Panchayet may undertake the construction, restoration, or improvement as the case may be, of a minor tank, under the rules framed by Government in this behalf.”

3. For the figure “(3)” in sub-section (3) of section 16, the figure “(2)” shall be substituted.

## REGULATION No. XIII OF 1916.

(Received the assent of His Highness the Maharaja on the 22nd day of December 1916.)

### The Minor Tank Restoration Regulation.

Whereas it is expedient to facilitate the working of the schemes for the restoration and improvement of minor tanks; His Highness the Maharaja is pleased to enact as follows:—

Title, extent and commencement.

1. (1) This Regulation may be called the Minor Tank Restoration Regulation, 1916.

(2) It extends to the whole of Mysore.

(3) It shall come into force at once.

Minor tank.

2. Every tank which falls within the definition of a minor tank contained in section 2 of the Tank Panchayet Regulation, I of 1911, shall be a minor tank within the purview of this Regulation.

Notice of restoration of minor Tank.

3. [a] (1) Whenever Government consider it necessary to take up the restoration of any existing minor tank, a notice of such intention with an estimate of the probable cost of restoration shall be published in the *Mysore Gazette*, in the Taluk Office, and in the chavadi of the village or villages concerned.

Time for preferring objections.

(2) Within two months of the date of the publication under sub-section (1), it will be open to the holders of the irrigable lands under the tank to prefer their objections to the said restoration before the Deputy Commissioner of the district.

Decisions thereon.

(3) The Deputy Commissioner shall, after hearing the objections, decide whether the work should be abandoned or whether it should be proceeded with, notwithstanding the objections raised thereto.

Appeal.

(4) Within one month from the date of such decision an appeal may be preferred to the Revenue Commissioner and his decision shall be final.

*Explanation.*—"Irrigable lands" include lands assessed as wet or garden and any lands commanded by the tank and liable to pay a water-rate.

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[a] Substituted for the original sections 3, 4 and 5 by Regulation XV of 1923.

4. (1) If no objections have been raised to such restoration, or if the objections raised have been overruled, the Government or any officer to whom Government may delegate their powers in this behalf, may sanction the execution of the work. Sanction.

(2) One-fourth of the actual cost of the restoration or one-fourth of the probable cost as published under section 3 (1), whichever is less, shall be recoverable as contribution from all the raiyats holding lands under the tank in the proportion of the assessment, or assessment and water-rate, as the case may be, payable on such lands, provided that the amount does not in any case exceed eight times the annual assessment or eight times the annual assessment and water-rate, as the case may be, on the irrigable lands. Contribution.

(3) The contribution under sub-section (2) shall be recoverable in not less than five and not more than ten annual instalments as may be fixed by the Deputy Commissioner, commencing from the year after the completion of the work. How recovered.

(4) The amount recoverable from the holders of lands under sub-section (2) shall be deemed to be a rate authorized by Government, within the meaning of section 219 of the Land Revenue Code, for purposes of the recovery of the contribution, on default.

5. (1) The Government may make rules—

(a) for the selection of tanks for restoration ; Power to make rules.  
 (b) prescribing the manner in which estimates are to be prepared ;

(c) prescribing the procedure in regard to the disposal of objection petitions by the Deputy Commissioner and the appeals by the Revenue Commissioner ; and

(d) generally to carry out the purposes of this Regulation.

(2) Rules made under this section shall be published in the official Gazette and shall thereupon have effect as if enacted in this Regulation. [a]

## REGULATION No. I OF 1917.

**A Regulation to amend the Law relating to  
Arbitration.**

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## REGULATION No. I OF 1917.

*(Received the assent of His Highness the Maharaja  
on the 3rd day of April 1917.)*

**A Regulation to amend the Law relating to  
Arbitration.**

Whereas it is expedient to amend the Law relating to arbitration by agreement without the intervention of a Court of Justice; His Highness the Maharaja is pleased to enact as follows:—

1. (1) This Regulation may be called the Mysore Arbitration Regulation, 1917. Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of Mysore; and

(3) It shall come into force on the first day of July 1918.

2. This Regulation shall apply to such areas and from such date as may be notified by Government in the official Gazette in this behalf. Application.

3. The last thirty-seven words of section 21 of the Specific Relief Act, 1877, and section 89 and paragraphs 17, 18, 19, 20 and 21 of the second schedule of the Code of Civil Procedure, 1911, shall not apply to any submission or arbitration to which the provisions of this Regulation for the time being apply: Exclusion of  
certain  
enactments  
in certain  
cases where  
Regulation  
applies.

Provided that nothing in this Regulation shall affect any arbitration pending in any local area at the date of the application thereto of this Regulation as aforesaid, but shall apply to every arbitration commenced after the date of the application of this Regulation, under any agreement or order previously made.

4. In the Regulation, unless there is anything repugnant in the subject or context,— Definitions.

(a) “the Court” means, the Court of the District Judge; and

(b) “submission” means, a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.



Submission to be irrevocable except by leave of Court.

5. A submission, unless a different intention is expressed therein, shall be irrevocable, except by leave of the Court.

Provisions implied in submissions.

6. A submission, unless a different intention is expressed therein, shall be deemed to include the provisions set forth in the first schedule, in so far as they are applicable to the reference under submission.

Reference to arbitrator to be appointed by third person.

7. The parties to a submission may agree that the reference shall be to an arbitrator or arbitrators to be appointed by a person designated therein.

Such person may be designated either by name or as the holder, for the time being of any office or appointment.

### *Illustration.*

The parties to a submission may agree that any dispute arising between them in respect of the subject-matter of the submission shall be referred to an arbitrator to be appointed by a particular Chamber of Commerce, or, as the case may be, to an arbitrator to be appointed by the President for the time being of a particular Chamber of Commerce.

Power for the Court in certain cases to appoint an arbitrator, umpire or third arbitrator.

8. (1) In any of the following cases :—

- (a) where a submission provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator;
- (b) if an appointed arbitrator neglects or refuses to act, or is incapable of acting, or dies, or is removed and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy ;
- (c) where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator, and do not appoint him ;
- (d) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy ;

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to concur in appointing an arbitrator, umpire or third arbitrator.

(2) If the appointment is not made within seven clear days after the service of the notice, the Court may,

on application by the party who gave the notice, and after giving the other party an opportunity of being heard, appoint an arbitrator, umpire or third arbitrator, who shall have the like power to act in the reference and make an award as if he had been appointed by consent of all parties.

9. Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a different intention is expressed therein,—

Power for parties in certain cases to supply vacancy.

- (a) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies or is removed, the party who appointed him may appoint a new arbitrator in his place;
- (b) if, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with a written notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent:

Provided that the Court may set aside any appointment made in pursuance of clause (b) of this section.

10. The arbitrators or umpire acting under a submission shall, unless a different intention is expressed therein,—

Power of arbitrators.

- (a) have power to administer oaths to the parties and witnesses appearing;
- (b) have power to state a special case for the opinion of the Court on any question of law involved; and
- (c) have power to correct in an award any clerical mistake or error arising from any accidental slip or omission.

11. (1) When the arbitrators or umpire have made their award, they shall sign it and shall give notice to the parties of the making and signing thereof and of the amount of the fees and charges payable to the arbitrators or umpire in respect of the arbitration and award.

Award to be signed and filed.

(2) The arbitrators or umpire shall, at the request of any party to the submission or any person claiming

under him, and upon payment of the fees and charges due in respect of the arbitration and award, and of the costs and charges of filing the award, cause the award, or a signed copy of it, to be filed in the Court; and notice of the filing shall be given to the parties by the arbitrators or umpire.

(3) Where the arbitrators or umpire state a special case under section 10, clause (b), the Court shall deliver its opinion thereon; and such opinion shall be added to, and shall form part of, the award.

Power for  
Court to  
enlarge time  
for making  
award.

12. The time for making an award may, from time to time, be enlarged by order of the Court, whether the time for making the award has expired or not.

Power to  
remit  
award.

13. (1) The Court may, from time to time, remit the award to the reconsideration of the arbitrators or umpire.

(2) Where an award is remitted under sub-section (1), the arbitrators or umpire shall, unless the Court otherwise directs, make a fresh award within three months after the date of the order remitting the award.

Power to set  
aside award.

14. Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set aside the award.

Award when  
filed to be  
enforceable  
as a decree.

15. (1) An award on a submission, on being filed in the Court in accordance with the foregoing provisions, shall (unless the Court remits it to the reconsideration of the arbitrators or umpire, or sets it aside) be enforceable as if it were a decree of the Court.

(2) An award may be conditional or in the alternative.

### *Illustration.*

A dispute concerning the ownership of a diamond ring is referred to arbitration. The award may direct that the party in possession shall pay the other party Rs. 1,000, the said sum to be reduced to Rs. 5 if the ring is returned within fourteen days.

Power to  
remove  
arbitrator or  
umpire.  
Costs.

16. Where an arbitrator or umpire has misconducted himself, the Court may remove him.

17. Any order made by the Court under this Regulation may be made on such terms as to costs or otherwise as the Court thinks fit.

Forms.

18. The forms set forth in the second schedule, or forms similar thereto, with such variations as the circumstances of each case require, may be used for the respective purposes there mentioned, and, if used, shall not be called in question.

19. Where any party to a submission to which this Regulation applies, or any person claiming under him, commences any legal proceedings against any other party to the submission, or any person claiming under him, in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other steps in the proceedings, apply to the Court to stay the proceedings; and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, {may make an order staying the proceedings.

Power to stay proceedings where there is a submission.

20. The High Court may make rules consistent with this Regulation as to—

Power for High Court to make rules.

- (a) the filing of awards and all proceedings consequent thereon or incidental thereto;
- (b) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto;
- (c) the staying of any suit or proceeding in contravention of a submission to arbitration; and
- (d) generally, all proceedings in Court under this Regulation.

21. In section 21 of the Specific Relief Act, 1877, after the words "Code of Civil Procedure" the words and figures "and the Mysore Arbitration Regulation, 1917," shall be inserted, and for the words "a controversy" the words "present or future differences" shall be substituted.

Amendment of section 21, Act 1, 1877.

22. The provisions of this Regulation shall be binding on the Government.

Government to be bound.

## THE FIRST SCHEDULE.

(SEE SECTION 6.)

### *Provisions to be implied in submissions.*

I. If no other mode of reference is provided, the reference shall be to a single arbitrator.

II. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

III. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or



Now we, the said A. B. and C. D., do hereby agree to refer the said matters in difference to the award of X. Y.

*Dated the*

19 .

(Signed) A. B.  
C. D.

### FORM III.

#### *Appointment of single arbitrator under agreement to refer future differences to arbitration.*

In the matter of the Mysore Arbitration Regulation, 1917 :—

Whereas, by an agreement in writing, dated the

day of

19 ,

and made between A. B. of

and C. D. of

it is provided that differences arising between the parties thereto shall be referred to an arbitrator as therein mentioned :

And whereas differences within the meaning of the said provision have arisen and are still subsisting between the said parties concerning.

Now we, the said parties, A. B. and C. D., do hereby refer the said matters in difference to the award of X. Y.

(Signed) A. B.

*Dated the*

19 .

C. D.

### FORM IV.

#### *Enlargement of time by arbitrator by endorsement on submission.*

In the matter of the Mysore Arbitration Regulation, 1917, and an arbitration between A. B. of and C. D. of

:—

I hereby enlarge the time of making my award in respect of the matters in difference referred to me by the within (or above) submission until the day of 19 .

(Signed) X. Y.

*Dated the*

19

*Arbitrator.*

### FORM V.

#### *Special case.*

In the matter of the Mysore Arbitration Regulation, 1917, and an arbitration between A. B. of and C. D. of

:—

The following special case is, pursuant to the provisions of section 10, clause (b) of the said Regulation, stated for the opinion of the

:—\*

\*Here specify the Court.

(Here state the facts concisely in numbered paragraphs.)

The questions of law for the opinion of the said Court are :—

First, whether.....

Secondly, whether.....

*Dated the*

19 .

(Signed) X. Y.,  
*Arbitrator.*

FORM VI.

*Award.*

In the matter of the Mysore Arbitration Regulation, 1917 and an arbitration between A. B. of                      and C. D. of                      :—

Whereas in pursuance of an agreement in writing dated the                      day of                      , 19                      , and made between A. B. of                      and C. D. of                      , the said A. B. and C. D. have referred to me, X. Y., the matters in difference between them concerning                      (or as the case may be);

Now I, the said X. Y., having duly considered the matters submitted to me, do hereby make my award as follows :—

I award—

(1) that.....

(2) that .....

*Dated the*

19 .

(Signed) X. Y.,  
*Arbitrator.*

\_\_\_\_\_

## REGULATION No. III OF 1917.

*(Received the assent of His Highness the Maharaja on the  
17th day of April 1917.)*

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**A Regulation to amend the Mysore  
Village Courts Regulation.**

Whereas it is expedient to amend the Mysore Village Courts Regulation, 1913; His Highness the Maharaja is pleased to enact as follows:—

In section 2 of the Regulation for the third paragraph containing the definition of the expression “District Judge” or “Munsiff”, the following two paragraphs shall be substituted:—

*Amendment  
of section 2  
of the  
Regulation.*

“District Judge” means the District Judge of the district in which the Village Court is situate.

“Munsiff” means the Judge of the lowest grade appointed under the Mysore Civil Courts Regulation, I of 1883, to exercise the jurisdiction of a Civil Court over the locality in which the Village Court is situate.

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## REGULATION No. IV OF 1917.

*(Received the assent of His Highness the Maharaja on the 20th day of July 1917.)*

### The Mysore State Life Insurance Regulation.

Whereas it is expedient to provide for the payment, in certain cases, of the bonus secured by a policy in the Mysore State Life Insurance without the production of a succession certificate, probate or letters of administration to the estate of the deceased insured: His Highness the Maharaja is pleased to enact as follows:—

- |  |  |
|--|--|
| Short title.                                       | 1. (1) This Regulation may be called the Mysore State Life Insurance Regulation, 1917.   |
| Extent.  | (2) It shall extend to the whole of Mysore.  |
| Application.                                       | (3) It shall apply to the case of any bonus that may become payable under the rules to the insured or his nominee or heir on or after the date of the passing of this Regulation.  |
| Definition.  | 2. In this Regulation, unless there is anything repugnant to the subject or context,—<br>(1) “Rules” means rules relating to the Mysore State Life Insurance for the time being in force:<br>(2) “Bonus” includes the amount secured by the insurance as becoming payable to the insured or his nominees or heirs according to the rules:<br>(3) “Insured” means any person on whose life an insurance has been effected with the Mysore State Life Insurance Committee and has been accepted by them. |
| Payment on death of the insured.                   | 3. When an insured dies, without making any nomination in accordance with the rules, the officer whose duty it is to make payment of bonus, may, notwithstanding anything to the contrary in the rules, pay it, provided that the sum payable does not exceed [a] Rs. 2,000 to such person as the President of the Insurance Committee, after reasonable enquiry, finds to be entitled to receive it.  |
| Protection for anything done under the Regulation. | 4. No suit or other legal proceeding shall lie against any such officer in respect of anything, in good faith, done or intended to be done in pursuance of the provisions of this Regulation.  |

[a] Substituted for the original figure Rs. 1,000 by Regulation IV of 1921.

## REGULATION No. VI OF 1917.

*(Received the assent of His Highness the Maharaja on the 9th day of October 1917.)*

### A Regulation to prevent the spreading of Plant Disease.

Whereas it is expedient to make provision for preventing the spreading of plant disease; His Highness the Maharaja is pleased to enact as follows:—

1. This Regulation may be called the Destructive Insects and Pests Regulation, 1917. Short title, extent and commencement.

It shall extend to the whole of Mysore and it shall come into force at once.

2. In this Regulation, unless there is anything repugnant in the subject or context; Definition.

(a) “crops” includes all agricultural or horticultural crops, trees or bushes or herbs, the fruit or any other part of which is used for food of man or beast or for any purpose in connection with art or manufactures:

(b) “notified area” means any specified area or locality declared by Government to be infected with a plant disease under section 3:

(c) “plant disease” includes any disease affecting trees, plants, vegetables and crops caused by or consisting of the presence of any insect or fungus and any other disease affecting trees, plants, vegetables or crops which the Government may, from time to time, by a notification in the official Gazette, declare to be a plant disease within the meaning of the Regulation and whether or not caused by or consisting of the presence of any insect or fungus.

3. Government may, by notification in the official Gazette, declare any specified area or locality within Mysore to be a place infected with a plant disease in respect of any specified crop during a period to be fixed in such notification. Power to declare infected area and crop.

4. Government may, by notification in the official Gazette, make rules or orders for all or any of the following:— Power of Government to make rules.

(a) for the seizure, inspection, disinfection or destruction of any crops in respect of which a notification has

been issued under section 3 or of any article which may have been in contact or proximity thereto, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(b) for prescribing or regulating the treatment, removal, uprooting, destruction or disposal of crops within a notified area and for providing for payment of compensation in proper cases ;

(c) for prescribing and regulating the cleansing and disinfecting of infected places or areas or parts thereof ;

(d) for prescribing the period within which it shall not be lawful to plant or re-plant with any crop whatsoever or with any particular kind of crop the whole or any portion of a notified area ;

(e) for prohibiting or regulating the movement temporarily of crops, earth, soil, manure or other things into or out of a notified area ; and

(f) generally for the preventing in any manner of the spread within the State of any plant disease.

Penalty.

5. For every breach of a rule or order made under this Regulation the offender on conviction by a Magistrate shall be liable to a fine not exceeding rupees five hundred :

Provided it shall be within the discretion of the Magistrate to discharge the offender with a warning in the case of a first offence.

No suit,  
prosecution,  
etc., against a  
person acting  
in good faith  
under this  
Regulation.

6. No suit, prosecution or other legal proceeding shall lie against any person for anything, in good faith, done or intended to be done under this Regulation.

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REGULATION No. VII OF 1917.  
The Negotiable Instruments Regulation.

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## REGULATION No. VII OF 1917.

*(Received the assent of His Highness the Maharaja on the 9th day of October 1917.)*

**A Regulation to define and amend the Law relating to Promissory Notes, Bills of Exchange and Cheques.**

Whereas it is expedient to define and amend the law relating to promissory notes, bills of exchange and cheques; His Highness the Maharaja is pleased to enact as follows :— Preamble.

## CHAPTER I.

## PRELIMINARY.

1. This Regulation may be called the Negotiable Instruments Regulation, 1917. Short title.

It extends to the whole of Mysore; but nothing herein contained affects the Government of India Notification Foreign Department, No. 658, dated the 7th February 1879, or affects any local usage relating to any instrument in an oriental language: Provided that such usages may be excluded by any words in the body of the instrument which indicate an intention that the legal relations of the parties thereto shall be governed by this Regulation; and Local extent. Savings of usages relating to hundis, etc.

it shall come into force on the first day of February 1918. Commencement.

2. [Not introduced].

3. In this Regulation—

“banker” includes also persons or a corporation or company acting as bankers: and Interpretation-clause.

“notary public” includes also any person appointed by Government to perform the functions of a notary public under this Regulation.

## CHAPTER II.

## OF NOTES, BILLS AND CHEQUES.

4. A “promissory note” is an instrument in writing “Promissory note.”

(not being a bank-note or a currency-note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument.

### *Illustrations.*

A signs instruments in the following terms:—

- (a) "I promise to pay B or order Rs. 500."
- (b) "I acknowledge myself to be indebted to B in Rs. 1,000, to be paid on demand for value received."
- (c) "Mr. B, I O U Rs. 1,000."
- (d) "I promise to pay B Rs. 500 and all other sums which shall be due to him."
- (e) "I promise to pay B Rs. 500, first deducting thereout any money which he may owe me."
- (f) "I promise to pay B Rs. 500 seven days after my marriage with C."
- (g) "I promise to pay B Rs. 500 on D's death, provided D leaves me enough to pay that sum."
- (h) "I promise to pay B Rs. 500 and to deliver to him my black horse on first January next."

The instruments respectively marked (a) and (b) are promissory notes. The instruments respectively marked (c), (d), (e), (f), (g), and (h) are not promissory notes.

"Bill of exchange"

5. A "bill of exchange" is an instrument in writing containing an unconditional order signed by the maker directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.

A promise or order to pay is not "conditional," within the meaning of this section and section 4, by reason of the time for payment of the amount or any instalment thereof being expressed to be on the lapse of a certain period after the occurrence of a specified event which according to the ordinary expectation of mankind, is certain to happen, although the time of its happening may be uncertain.

The sum payable may be "certain" within the meaning of this section and section 4, although it includes future interest or is payable at an indicated rate of exchange, or is according to the course of exchange, and although the instrument provides that, on default of payment of an instalment, the balance unpaid shall become due.

The person to whom it is clear that the direction is given or that payment is to be made may be a "certain person" within the meaning of this section and section

4, although he is mis-named or designated by description only.

6. A "cheque" is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand. "Cheque."

7. The maker of a bill of exchange or cheque is called the "drawer;" the person thereby directed to pay is called the "drawee." "Drawer."  
"Drawee."

When in the bill or in any indorsement thereon the name of any person is given in addition to the drawee to be resorted to in case of need, such person is called a "drawee in case of need." "Drawee in case of need."

After the drawee of a bill has signed his assent upon the bill, or, if there are more parts thereof than one, upon one of such parts, and delivered the same or given notice of such signing to the holder or to some person on his behalf, he is called the "acceptor." "Acceptor."

When a bill of exchange has been noted or protested for non-acceptance or for better security and any person accepts it *supra protest* for honour of the drawer or of any one of the indorsers, such person is called an "acceptor for honour." "Acceptor for honour."

The person named in the instrument to whom or to whose order the money is by the instrument directed to be paid, is called "the payee." "Payee"

8. The "holder" of a promissory note, bill of exchange or cheque means any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto. "Holder."

Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

9. "Holder in due course" means any person who for consideration became the possessor of a promissory note, bill of exchange or cheque if payable to bearer, or the payee or indorsee thereof, if [a] payable to order before the amount mentioned in it became payable, and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title. "Holder in due course."

10. "Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford "Payment in due course."

[a] Substituted for the original by section 1 of Regulation II of 1921.

a reasonable ground for believing that he is not entitled to receive payment of the amount therein mentioned.

Inland  
instrument.

11. A promissory note, bill of exchange or cheque drawn or made in Mysore, and made payable in, or drawn upon any person resident in Mysore, shall be deemed to be an inland instrument.

Foreign  
instrument.

12. Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument.

"Negotiable  
Instrument"

13. [a] (1) A "negotiable instrument" means a promissory note, bill of exchange or cheque payable either to order or to bearer.

*Explanation (i).*—A promissory note, bill of exchange or cheque is payable to order which is expressed to be so payable or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it shall not be transferable.

*Explanation (ii).*—A promissory note, bill of exchange or cheque is payable to bearer which is expressed to be so payable or on which the only or last indorsement is an indorsement in blank.

*Explanation (iii).*—Where a promissory note, bill of exchange or cheque either originally or by indorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option. [a]

(2) A negotiable instrument may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees.

Negotiation.

14. When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated.

Indorsement.

15. When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser."

Indorsement  
"in blank"  
and "in full."

16. (1) If the indorser signs his name only, the indorsement is said to be "in blank," and if he adds a direction to pay the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is

[a] Substituted for the original by section 2 of Regulation II of 1921.

said to be "in full ;" and the person so specified is called the "indorsee" of the instrument.

"Indorsee"

(2) The provisions of this Regulation relating to payee shall apply with necessary modifications to an indorsee.

17. Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly.

Ambiguous instruments.

18. If the amount undertaken or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount undertaken or ordered to be paid.

Where amount is stated differently in figures and words.

19. A promissory note or bill of exchange, in which no time for payment is specified, and a cheque, are payable on demand.

Instrument payable on demand.

20. Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in Mysore, and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives *prima facie* authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount: Provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder.

Inchoate stamped instruments.

21. In a promissory note or bill of exchange the expressions "at sight" and "on presentment" mean on demand. The expression "after sight" means, in a promissory note, after presentment for sight, and, in a bill of exchange, after acceptance, or noting for non-acceptance, or protest for non-acceptance.

"At sight."  
"On presentment."  
"After sight."

22. The maturity of a promissory note or a bill of exchange is the date at which it falls due.

"Maturity."

Every promissory note or bill of exchange which is not expressed to be payable on demand, at sight, or on presentment is at maturity on the third day after the day on which it is expressed to be payable.

Days of grace.

Calculating  
maturity of  
bill or note  
payable so  
many months  
after date or  
sight.

23. In calculating the date at which a promissory note or bill of exchange, made payable a stated number of months after date or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds with the day on which the instrument is dated, or presented for acceptance or sight, or noted for non-acceptance, or protested for non-acceptance, or the event happens, or where the instrument is a bill of exchange made payable a stated number of months after sight and has been accepted for honour, with the day on which it was so accepted. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.

### *Illustrations.*

(a) A negotiable instrument, dated 29th January 1878, is made payable at one month after date. The instrument is at maturity on the third day after the 28th February 1878.

(b) A negotiable instrument, dated 30th August 1878, is made payable three months after date. The instrument is at maturity on the 3rd December 1878.

(c) A promissory note or bill of exchange, dated 31st August 1878, is made payable three months after date. The instrument is at maturity on the 3rd December 1878.

Calculating  
maturity of  
bill or note  
payable so  
many days  
after date or  
sight.

24. In calculating the date at which a promissory note or bill of exchange made payable a certain number of days after date or after sight or after a certain event is at maturity, the day of the date, or of presentment for acceptance or sight, or of protest for non-acceptance, or on which the event happens, shall be excluded.

When day of  
maturity is a  
holiday.

25. When the day on which a promissory note or bill of exchange is at maturity is a public holiday, the instrument shall, be deemed to be due on the next preceding business day.

*Explanation.*—The expression “public holiday” includes Sundays, New Year’s Day, Christmas Day : if either of such days falls on a Sunday, the next following Monday : Good Friday ; and any other day declared by Government, by notification in the official Gazette, to be a public holiday.

## CHAPTER III.

## PARTIES TO NOTES, BILLS AND CHEQUES.

26. Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery and negotiation of a promissory note, bill of exchange or cheque.

Capacity to make, etc., promissory notes, etc.

A minor may draw, indorse, deliver and negotiate such instrument so as to bind all parties except himself.

Minor.

Nothing herein contained shall be deemed to empower a corporation to make, indorse or accept such instruments except in cases in which, under the law for the time being in force, it is so empowered.

27. Every person capable of binding himself or of being bound, as mentioned in section 26, may so bind himself or be bound by a duly authorized agent acting in his name.

Agency.

A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or indorsing bills of exchange so as to bind his principal.

Any authority to draw bills of exchange does not of itself import an authority to indorse.

28. An agent who signs his name to a promissary note, bill of exchange or cheque without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the instrument, except to those who induced him to sign upon the belief that the principal only would be held liable.

Liability of agent signing.

29. A legal representative of a deceased person who signs his name to a promissory note, bill of exchange or cheque is liable personally thereon unless he expressly limits his liability to the extent of the assets received by him as such.

Liability of legal representative signing.

30. The drawer of a bill of exchange or cheque is bound, in case of dishonour by the drawee or acceptor thereof, to compensate the holder, provided due notice of dishonour has been given to, or received by, the drawer as hereinafter provided.

Liability of drawer.

31. The drawee of a cheque having sufficient funds of the drawer in his hands, properly applicable to the payment of such cheque must pay the cheque when duly required so to do, and, in default of such payment, must

Liability of drawee of cheque.



compensate the drawer for any loss or damage caused by such default.

Liability of  
maker of  
note and  
acceptor of  
bill.

32. In the absence of a contract to the contrary, the maker of a promissory note and the acceptor before maturity of a bill of exchange are bound to pay the amount thereof at maturity according to the apparent tenor of the note or acceptance respectively, and the acceptor of the bill of exchange at or after maturity is bound to pay the amount thereof to the holder on demand.

In default of such payment as aforesaid, such maker or acceptor is bound to compensate any party to the note or bill for any loss or damage sustained by him and caused by such default.

Only drawee  
can be  
acceptor  
except in  
need or for  
honour.

33. No person except the drawee of a bill of exchange, or all or some of several drawees, or a person named therein as a drawee in case of need, or an acceptor for honour, can bind himself by an acceptance.

Acceptance  
by several  
drawees not  
partners.

34. Where there are several drawees of a bill of exchange who are not partners, each of them can accept it for himself, but none of them can accept it for another without his authority.

Liability of  
indorser.

35. In the absence of a contract to the contrary, whoever indorses and delivers a negotiable instrument before maturity, without, in such indorsement, expressly excluding or making conditional his own liability, is bound thereby to every subsequent holder, in case of dishonour by the drawee, acceptor or maker to compensate such holder for any loss or damage caused to him by such dishonour, provided due notice of dishonour has been given to, or received by, such indorser as hereinafter provided.

Every indorser after dishonour is liable as upon an instrument payable on demand.

Liability of  
prior parties  
to holder in  
due course.

36. Every prior party to a negotiable instrument is liable thereon to a holder in due course until the instrument is duly satisfied.

Maker,  
drawer and  
acceptor  
principals.

37. The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance, and the acceptor are, in the absence of a contract to the contrary, respectively liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for the maker, drawer or acceptor, as the case may be.

Prior party  
a principal  
in respect of  
each subse-  
quent party.

38. As between the parties so liable as sureties, each prior party is, in the absence of a contract to the contrary, also liable thereon as a principal debtor in respect of each subsequent party.

*Illustration.*

A draws a bill payable to his own order on B who accepts. A afterwards indorses the bill to C, C to D and D to E. As between E and B, B is the principal debtor, and A, C and D, are his sureties. As between E and A, A is the principal debtor, and C and D are his sureties. As between E and C, C is the principal debtor and D is his surety.

39. When the holder of an accepted bill of exchange enters into any contract with the acceptor which, under section 134 or 135 of the Indian Contract Act, 1872, as applied to Mysore, would discharge the other parties, the holder may expressly reserve his right to charge the other parties, and in such case they are not discharged. Suretyship.

40. Where the holder of a negotiable instrument, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity. Discharge of indorser's liability.

*Illustration.*

A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsements in blank :—

First indorsement, "B."

Second indorsement, "Peter Williams."

Third indorsement, "Wright & Co."

Fourth indorsement, "John Rozario."

This bill A puts in suit against John Rozario and strikes out without John Rozario's consent, the indorsements by Peter Williams and Wright & Co. A is not entitled to recover anything from John Rozario.

41. An acceptor of a bill of exchange already indorsed is not relieved from liability by reason that such indorsement is forged, if he knew or had reason to believe the indorsement to be forged when he accepted the bill. Acceptor bound although indorsement forged.

42. An acceptor of a bill of exchange drawn in a fictitious name and payable to the drawer's order is not, by reason that such name is fictitious, relieved from liability to any holder in due course claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer. Acceptance of bill drawn in fictitious name.

43. A negotiable instrument made, drawn, accepted, indorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instrument with or without indorsement to a holder for consideration, such holder, and every subsequent holder deriving title from him, may Negotiable instrument made, etc., without consideration.

recover the amount due on such instrument from the transferor for consideration or any prior party thereto.

*Exception I.*—No party for whose accommodation a negotiable instrument has been made, drawn, accepted or indorsed can, if he have paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation.

*Exception II.*—No party to the instrument who has induced any other party to make, draw, accept, indorse or transfer the same to him for a consideration which he has failed to pay or perform in full shall recover thereon an amount exceeding the value of the consideration (if any) which he has actually paid or performed.

Partial absence or failure of money consideration.

44. When the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

*Explanation.*—The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque stands in immediate relation with the payee, and the indorser with his indorsee. Other signers may by agreement stand in immediate relation with a holder.

### *Illustration.*

A draws a bill on B. for Rs. 500 payable to the order of A. B accepts the bill, but subsequently dishonours it by non-payment. A sues B on the bill. B proves that it was accepted for value as to Rs. 400, and as an accommodation to the plaintiff as to the residue. A can only recover Rs. 400.

Partial failure of consideration not consisting of money.

45. Where a part of the consideration for which a person signed a promissory note, bill of exchange or cheque, though not consisting of money, is ascertainable in money without collateral enquiry, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Holder's right to duplicate of lost bill.

45A. Where a bill of exchange has been lost before it is over-due, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to

indemnify him against, all persons whatever in case the bill alleged to have been lost shall be found again.

If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so.

## CHAPTER IV.

### OF NEGOTIATION.

**46.** The making, acceptance or indorsement of a promissory note, bill of exchange or cheque is completed by delivery, actual or constructive. Delivery.

As between parties standing in immediate relation delivery to be effectual must be made by the party making, accepting or indorsing the instrument, or by a person authorized by him in that behalf.

As between such parties and any holder of the instrument other than a holder in due course, it may be shown that the instrument was delivered conditionally or for a special purpose only, and not for the purpose of transferring absolutely the property therein.

**47.** Subject to the provisions of section 58, a promissory note, bill of exchange or cheque payable to bearer is negotiable by delivery thereof. Negotiation by delivery.

*Exception.*—A promissory note, bill of exchange or cheque delivered on condition that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder for value without notice of the condition) unless such event happens.

### *Illustrations.*

(a) A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep for B. The instrument has been negotiated.

(b) A, the holder of a negotiable instrument payable to bearer, which is in the hands of A's banker, who is at the time the banker of B, directs the banker to transfer the instrument to B's credit in the banker's account with B. The banker does so, and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

**48.** Subject to the provisions of section 58, a promissory note, bill of exchange or cheque [a] payable to order [a] is negotiable by the holder by indorsement and delivery thereof. Negotiation by indorsement.

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[a] Substituted for the original by section 3 of Regulation II of 1921.

Conversion  
of indorse-  
ment in  
blank into  
indorsement  
in full.

49. The holder of a negotiable instrument indorsed in blank may, without signing his own name, by writing above the indorser's signature a direction to pay to any other person as indorsee, convert the indorsement in blank into an indorsement in full; and the holder does not thereby incur the responsibility to an indorser.

Effect of  
indorsement.

50. The indorsement of a negotiable instrument followed by delivery transfers to the indorsee the property therein with the right of further negotiation; but the indorsement may, by express words, restrict or exclude such right, or may merely constitute the indorsee an agent to indorse the instrument, or to receive its contents for the indorser or for some other specified person.

### *Illustrations.*

B signs the following indorsements on different negotiable instruments payable to bearer:—

- (a) "Pay the contents to C only."
- (b) "Pay C for my use."
- (c) "Pay C or order for the account of B."
- (d) "The within must be credited to C."

These indorsements exclude the right of further negotiation by C.

- (e) "Pay C."
- (f) "Pay C value in account with the Oriental Bank."
- (g) "Pay the contents to C, being part of the consideration in

a certain deed of assignment executed by C to the indorser and others."

The indorsements do not exclude the right of further negotiation by C.

Who may  
negotiate.

51. Every sole maker, drawer, payee or indorsee, or all of several joint makers, drawers, payees or indorsees, of a negotiable instrument may, if the negotiability of such instrument has not been restricted or excluded as mentioned in section 50, indorse and negotiate the same.

*Explanation.*—Nothing in this section enables a maker or drawer to indorse or negotiate an instrument unless he is in lawful possession or is holder thereof; or enables a payee or indorsee to indorse or negotiate an instrument, unless he is holder thereof.

### *Illustration.*

A bill is drawn payable to A or order. A indorses it to B, the indorsement not containing the words "or order" or any equivalent words. B may negotiate the instrument.

Indorser who  
excludes his  
own liability  
or makes it  
conditional.

52. The indorser of a negotiable instrument may, by express words in the indorsement, exclude his own liability thereon, or make such liability or the right of the

indorsee to receive the amount due thereon depend upon the happening of a specified event although such event may never happen.

Where an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him.

### *Illustrations.*

(a) The indorser of a negotiable instrument signs his name adding the words—"Without recourse."

Upon this indorsement he incurs no liability.

(b) A is the payee and holder of a negotiable instrument. Excluding personal liability by an indorsement "without recourse," he transfers the instrument to B, and B indorses it to C, who indorses it to A. A is not only reinstated in his former rights, but has the rights of an indorsee against B and C.

53. A holder of a negotiable instrument who derives title from a holder in due course has the rights thereon of that holder in due course.

Holder deriving title from holder in due course.

54. Subject to the provisions hereinafter contained as to crossed cheques, a negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

Instrument indorsed in blank.

55. If a negotiable instrument after having been indorsed in blank is indorsed in full, the amount of it cannot be claimed from the indorser in full, except by the person to whom it has been indorsed in full, or by one who derives title through such person.

Conversion of indorsement in blank into indorsement in full.

56. No writing on a negotiable instrument is valid for the purpose of negotiation if such writing purports to transfer only a part of the amount appearing to be due on the instrument; but, where such amount has been partly paid, a note to that effect may be indorsed on the instrument, which may then be negotiated for the balance.

Indorsement for part of sum due.

57. The legal representative of a deceased person cannot negotiate by delivery only a promissory note, bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

Legal representative cannot by delivery only negotiate instrument indorsed by deceased.

58. When a negotiable instrument has been lost or has been obtained from any maker, acceptor, or holder thereof by means of an offence or fraud, or for an unlawful consideration, no possessor or indorsee who claims through the person who found or so obtained the instrument, is entitled to receive the amount due thereon from

Instrument obtained by unlawful means or for unlawful consideration.

such maker, acceptor or holder, or from any party, prior to such holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.

Instrument  
acquired  
after dishonour  
or when overdue.

59. The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only, as against the other parties, the rights thereon of his transferor :

Accommodation  
note or bill.

Provided that any person who, in good faith and for consideration, becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn or accepted without consideration, for the purpose of enabling some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party.

### *Illustration.*

The acceptor of a bill of exchange, when he accepted it, deposited with the drawer certain goods as a collateral security for the payment of the bill, with power to the drawer to sell the goods and apply the proceeds in discharge of the bill if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds but indorsed the bill to A. A's title is subject to the same objection as the drawer's title.

Instrument  
negotiable  
till payment  
or satisfaction.

60. A negotiable instrument may be negotiated (except by the maker, drawee or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee or acceptor at or after maturity, but not after such payment or satisfaction.

## CHAPTER V.

### OF PRESENTMENT.

Presentment  
for acceptance.

61. A bill of exchange payable after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can, after reasonable search, be found, by a person entitled to demand acceptance, within a reasonable time after it is drawn, and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

If the drawee cannot, after reasonable search, be found, the bill is dishonoured.

If the bill is directed to the drawee at a particular place, it must be presented at that place ; and, if at the

due date for presentment he cannot, after reasonable search, be found there, the bill is dishonoured.

Where authorized by agreement or usage, a presentment through the post office by means of a registered letter is sufficient.

62. A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight (if he can, after reasonable search, be found) by a person entitled to demand payment, within a reasonable time after it is made and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Presentment of promissory note for sight.

63. The holder must, if so required by the drawee of a bill of exchange presented to him for acceptance, allow the drawee [a] forty eight hours (exclusive of public holidays) to consider whether he will accept it.

Drawee's time for deliberation.

64. Promissory notes, bills of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof, respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder.

Presentment for payment.

Where authorized by agreement or usage, a presentment through the post office by means of a registered letter is sufficient.

*Exception.*—Where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof.

65. Presentment for payment must be made during the usual hours of business, and, if at a banker's, within banking hours.

Hours for presentment.

66. A promissory note or bill of exchange made payable at a specified period after date or sight thereof, must be presented for payment at maturity.

Presentment for payment of instrument payable after date or sight.

67. A promissory note payable by instalments must be presented for payment on the third day after the date fixed for payment of each instalment; and non-payment of such presentment has the same effect as non-payment of a note at maturity.

Presentment for payment of promissory note payable by instalments.

68. A promissory note, bill of exchange or cheque made, drawn or accepted payable at a specified place and not elsewhere must in order to charge any party thereto, be presented for payment at that place.

Presentment for payment of instrument payable at specified place and not elsewhere.

[a] Substituted for "twenty-four" by section I of Regulation IV of 1922.



Instrument payable at specified place.

69. A promissory note or bill of exchange, made drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place.

Presentment where no exclusive place specified.

70. A promissory note or bill of exchange not made payable as mentioned in sections 68 and 69, must be presented for payment at the place of business (if any), or at the usual residence of the maker, drawee or acceptor thereof, as the case may be.

Presentment when maker, etc., has no known place of business or residence.

71. If the maker, drawee or acceptor of a negotiable instrument has no known place of business or fixed residence, and no place is specified in the instrument for presentment for acceptance or payment, such presentment may be made to him in person wherever he can be found.

Presentment of cheque to charge drawer.

72. Subject to the provisions of section 84, a cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn before the relation between the drawer and his banker has been altered to the prejudice of the drawer.

Presentment of cheque to charge any other person.

73. A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after delivery thereof by such person.

Presentment of instrument payable on demand.

74. Subject to the provisions of section 31, a negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder.

Presentment by or to agent representative of deceased or assignee of insolvent.

75. Presentment for acceptance or payment may be made to the duly authorized agent of the drawee, maker or acceptor, as the case may be, or, where the drawee, maker or acceptor has died, to his legal representative, or where he has been declared an insolvent, to his assignee.

Excuse for delay in presentment for acceptance or payment.

[a] 75A. Delay in presentment for acceptance or payment is excused if the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made within a reasonable time.

When presentment unnecessary.

76. No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases :—

(a) If the maker, drawee or acceptor intentionally prevents the presentment of the instrument, or,

[a] Inserted by section 2 of Regulation IV of 1922.

if the instrument being payable at his place of business, he closes such place on a business day during the usual business hours, or,

if the instrument being payable at some other specified place, neither he nor any person authorized to pay it attends at such place during the usual business hours, or,

if the instrument not being payable at any specified place, he cannot after due search be found ;

(b) as against any party sought to be charged therewith, if he has engaged to pay notwithstanding non-presentment ;

(c) as against any party if, after maturity, with knowledge that the instrument has not been presented—

he makes a part payment on account of the amount due on the instrument,

or promises to pay the amount due thereon in whole or in part,

or otherwise waives his right to take advantage of any default in presentment for payment ;

(d) as against the drawer, if the drawer could not suffer damage from the want of such presentment.

77. When a bill of exchange accepted payable at a specified bank, has been duly presented there for payment and dishonoured, if the banker so negligently or improperly keeps, deals with or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss.

Liability of  
banker for  
negligently  
dealing with  
bill presented  
for payment.

## CHAPTER VI.

### OF PAYMENT AND INTEREST.

78. Subject to the provisions of section 82, clause (c), payment of the amount due on a promissory note, bill of exchange or cheque must in order to discharge the maker or acceptor, be made to the holder of the instrument.

To whom  
payment  
should be  
made.

79. When interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount of principal money due thereon, from the date of the instrument, until tender or realization of such amount, or until such date after the institution of a suit to recover such amount as the Court directs.

Interest  
when rate  
specified.

80. When no rate of interest is specified in the instrument, interest on the amount due thereon shall,

Interest when  
no rate speci-  
fied.

except in cases provided for by the Code of Civil Procedure, 1911, Schedule I, Order XXXVII, Rule 2, be calculated at the rate of six per centum per annum, from the date at which the same ought to have been paid by the party charged, until tender or realization of the amount due thereon, or until such date after the institution of a suit to recover such amount as the Court directs.

*Explanation.*—When the party charged is the indorser of an instrument dishonoured by non-payment he is liable to pay interest only from the time that he receives notice of the dishonour.

Delivery of instrument on payment or indemnity in case of loss.

81. Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up, to him, or, if the instrument is lost or cannot be produced to be indemnified against any further claim thereon against him.

## CHAPTER VII.

### OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES.

Discharge from liability.—

82. The maker, acceptor or indorser respectively of a negotiable instrument is discharged from liability thereon—

by cancellation;

(a) to a holder thereof who cancels such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder ;

by release ;

(b) to a holder thereof who otherwise discharges such maker, acceptor or indorser, and to all parties deriving title under such holder after notice of such discharge ;

by payment.

(c) to all parties thereto, if the instrument is payable to bearer, or has been indorsed in blank, and such maker, acceptor or indorser makes payment in due course of the amount due thereon.

Discharge by allowing drawee more than forty-eight hours to accept.

83. If the holder of a bill of exchange allows the drawee more than [a] forty-eight hours, exclusive of public holidays, to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.

[a] Substituted for "twenty-four" by section 1 of Regulation IV of 1922.

84. (1) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or person on whose account it is drawn had the right, at the time when presentment ought to have been made, as between himself and the banker, to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of the banker to a larger amount than he would have been if such cheque had been paid.

When cheque not duly presented and drawer damaged thereby.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.

(3) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge and entitled to recover the amount from him.

### *Illustrations.*

(a) A draws a cheque for Rs. 1,000 and, when the cheque ought to be presented, has funds at the bank to meet it. The bank fails before the cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque.

(b) A draws a cheque at Umballa on a bank in Calcutta. The bank fails before the cheque could be presented in ordinary course. A is not discharged, for he has not suffered actual damage through any delay in presenting the cheque.

85. (1) Where a cheque payable to order purports to be indorsed by or on behalf of the payee, the drawee is discharged by payment in due course.

Cheque payable to order.

[a] (2) Where a cheque is originally expressed to be payable to bearer, the drawee is discharged by payment in due course to the bearer thereof, notwithstanding any indorsement whether in full or in blank appearing thereon, and notwithstanding that any such indorsement purports to restrict or exclude further negotiation.[a]

86. If the holder of a bill of exchange acquiesces in a qualified acceptance, or one limited to part of the sum mentioned in the bill, or which substitutes a different place or time for payment, or which, where the drawees are not partners, is not signed by all the drawees, all previous parties whose consent is not obtained to such acceptance

Parties not consenting discharged by qualified or limited acceptance.

[a] Added by section 2 of Regulation IV of 1935.

are discharged as against the holder and those claiming under him, unless on notice given by the holder they assent to such acceptance.

*Explanation.*—An acceptance is qualified—

(a) where it is conditional, declaring the payment to be dependent on the happening of an event therein stated ;

(b) where it undertakes the payment of part only of the sum ordered to be paid ;

(c) where no place of payment being specified on the order, it undertakes the payment at a specified place, and not otherwise or elsewhere ; or where, a place of payment being specified in the order, it undertakes the payment at some other place and not otherwise or elsewhere ;

(d) where it undertakes the payment at a time other than that at which under the order it would be legally due.

Effect of  
material  
alteration.

87. Any material alteration of a negotiable instrument renders the same void as against any one who is a party thereto at the time of making such alteration and does not consent thereto, unless it was made in order to carry out the common intention of the original parties ;

Alteration by  
indorsee.

and any such alteration, if made by an indorsee, discharges his indorser from all liability to him in respect of the consideration thereof.

The provisions of this section are subject to those of sections 20, 49, 86 and 125.

Acceptor or  
indorser  
bound not-  
withstanding  
previous al-  
teration.

88. An acceptor or indorser of a negotiable instrument is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

Payment of  
instrument  
on which al-  
teration is  
not apparent.

89. Where a promissory note, bill of exchange or cheque has been materially altered but does not appear to have been so altered,

or where a cheque is presented for payment which does not at the time of presentation appear to be crossed or to have had a crossing which has been obliterated, payment thereof by a person or banker liable to pay, and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge such person or banker from all liability thereon ; and such payment shall not be questioned by reason of the instrument having been altered or the cheque crossed.

Extinguish-  
ment of  
rights of  
action on bill  
in acceptor's  
hands.

90. If a bill of exchange which has been negotiated, is at or after maturity, held by the acceptor in his own right, all rights of action thereon are extinguished.

## CHAPTER VIII.

## OF NOTICE OF DISHONOUR.

91. A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawees not being partners, makes default in acceptance upon being duly required to accept the bill, or where presentment is excused and the bill is not accepted.

Dishonour by  
non-accept-  
ance.

Where the drawee is incompetent to contract, or the acceptance is qualified, the bill may be treated as dishonoured.

92. A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill or drawee of the cheque makes default in payment upon being duly required to pay the same.

Dishonour by  
non-payment.

93. When a promissory note, bill of exchange or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or some party thereto who remains liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon.

By and to  
whom notice  
should be  
given.

Nothing in this section renders it necessary to give notice to the maker of the dishonoured promissory note or the drawee or acceptor of the dishonoured bill of exchange or cheque.

94. Notice of dishonour may be given to a duly authorized agent of the person to whom it is required to be given, or, where he has died, to his legal representative, or, where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment, that the instrument has been dishonoured; and in what, way, and that he will be held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business or (in case such party has no place of business) at the residence of the party for whom it is intended.

Mode in  
which notice  
may be given.

If the notice is duly directed and sent by post and miscarries, such miscarriage does not render the notice invalid.

Party receiving must transmit notice of dishonour.

95. Any party receiving notice of dishonour must, in order to render any prior party liable to himself, give notice of dishonour to such party within a reasonable time, unless such party otherwise receives due notice as provided by section 93.

Agent for presentment.

96. When the instrument is deposited with an agent for presentment, the agent is entitled to the same time to give notice to his principal as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour.

When party to whom notice given is dead.

97. When the party to whom notice of dishonour is despatched is dead, but the party despatching the notice is ignorant of his death, the notice is sufficient.

When notice of dishonour is unnecessary.

98. No notice of dishonour is necessary—

(a) when it is dispensed with by the party entitled thereto ;

(b) in order to charge the drawer when he has countermanded payment ;

(c) when the party charged could not suffer damage for want of notice ;

(d) when the party entitled to notice cannot after due search be found ; or the party bound to give notice is, for any other reason, unable without any fault of his own to give it ;

(e) to charge the drawers when the acceptor is also a drawer ;

(f) in the case of promissory note which is not negotiable ;

(g) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument.

## CHAPTER IX.

### OF NOTING AND PROTEST.

Noting.

99. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a notary public upon the instrument, or upon a paper attached thereto, or partly upon each.

Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reasons, if any, assigned for such dishonour, or, if the instrument has not been expressly dishonoured, the reason why the holder treats it as dishonoured, and the notary's charges.

**100.** When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder, may, within a reasonable time, cause such dishonour to be noted and certified by a notary public. Such certificate is called a protest. Protest.

When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time, cause a notary public to demand better security of the acceptor, and on its being refused, may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security. Protest for better security.

**101.** A protest under section 100 must contain—

Contents of protest.

(a) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon;

(b) the name of the person for whom and against whom the instrument has been protested;

(c) a statement that payment or acceptance, or better security, as the case may be, has been demanded of such person by the notary public; the terms of his answer, if any, or a statement that he gave no answer, or that he could not be found;

(d) when the note or bill has been dishonoured, the place and time of dishonour, and, when better security has been refused, the place and time of refusal;

(e) the subscription of the notary public making the protest;

(f) in the event of an acceptance for honour or of a payment for honour, the name of the person by whom, of the person for whom, and the manner in which such acceptance or payment was offered and effected.

A notary public may make the demand mentioned in clause (c) of this section either in person or by his clerk, or, where authorized by agreement or usage, by registered letter.

**102.** When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions; but the notice may be given by the notary public who makes the protest. Notice of protest.

**103.** All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and which are dishonoured by non-acceptance, may, without further presentment to the drawee, be Protest for non-payment after dishonour by non-acceptance.



protested for non-payment in the place specified for payment, unless paid before or at maturity.

Protest of  
foreign bills.

104. Foreign bills of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

When noting  
equivalent to  
protest.

104A. For the purposes of this Regulation, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding, and the formal protest may be extended at any time thereafter as of the date of the noting.

## CHAPTER X.

### OF REASONABLE TIME.

Reasonable  
time.

105. In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instrument; and, in calculating such time, public holidays shall be excluded.

Reasonable  
time of giv-  
ing notice of  
dishonour.

106. If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is despatched by the next post or on the day next after the day of dishonour.

If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

Reasonable  
time for  
transmitting  
such notice.

107. A party receiving notice of dishonour, who seeks to enforce his right against a prior party, transmits the notice within a reasonable time if he transmits it within the same time after its receipt as he would have had to give notice if he had been the holder.

## CHAPTER XI.

### OF ACCEPTANCE AND PAYMENT FOR HONOUR AND REFERENCE IN CASE OF NEED.

Acceptance  
for honour.

108. When a bill of exchange has been noted or protested for non-acceptance or for better security, any person not being a party already liable thereon may, with

the consent of the holder, by writing on the bill, accept the same for the honour of any party thereto.

109. A person desiring to accept for honour must, by writing on the bill under his hand, declare that he accepts under protest the protested bill for the honour of the drawer or of a particular indorser whom he names, or generally for honour.

How acceptance for honour must be made.

110. Where the acceptance does not express for whose honour it is made, it shall be deemed to be made for the honour of the drawer.

Acceptance not specifying for whose honour it is made.

111. An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill if the drawee do not : and such party and all prior parties are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance.

Liability of acceptor for honour.

But an acceptor for honour is not liable to the holder of the bill unless it is presented (or in case the address given by such acceptor on the bill is a place other than the place where the bill is made payable), forwarded for presentment, not later than the day next after the day of its maturity.

112. An acceptor for honour cannot be charged unless the bill has at its maturity been presented to the drawee for payment, and has been dishonoured by him, and noted or protested for such dishonour.

When acceptor for honour may be charged.

113. When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same, provided that the person so paying or his agent in that behalf has previously declared before a notary public the party for whose honour he pays, and that such declaration has been recorded by such notary public.

Payment for honour.

114. Any person so paying is entitled to all the rights, in respect of the bill, of the holder at the time of such payment and may recover from the party for whose honour he pays all sums so paid, with interest thereon and with all expenses properly incurred in making such payment.

Right of payer for honour.

115. Where a drawee in case of need is named in a bill of exchange, or in any indorsement thereon the bill is not dishonoured until it has been dishonoured by such drawee.

Drawee in case of need.

Acceptance  
and payment  
without pro-  
test.

116. A drawee in case of need may accept and pay the bill of exchange without previous protest.

## CHAPTER XII.

### OF COMPENSATION.

Rules as to  
compensa-  
tion.

117. The compensation payable in case of dishonour of a promissory note, bill of exchange or cheque, by any party liable to the holder or any indorsee shall (except in cases provided for by the Code of Civil Procedure, Schedule I, Order XXXVII, Rule 2) be determined by the following rules :—

(a) the holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting and protesting it ;

(b) when the person charged resides at a place different from that at which the instrument was payable the holder is entitled to receive such sum at the current rate of exchange between the two places ;

(c) an indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at six per centum per annum from the date of payment until tender or realization thereof, together with all expenses caused by the dishonour and payment ;

(d) when the person charged and such indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places ;

(e) the party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him, together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

## CHAPTER XIII.

### SPECIAL RULES OF EVIDENCE.

Presumptions  
as to negoti-  
able instru-  
ments—

118. Until the contrary is proved, the following presumptions shall be made ;

(a) that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration ;

of consideration.

(b) that every negotiable instrument bearing a date was made or drawn on such date ;

as to date ;

(c) that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity ;

as to time of acceptance ;

(d) that every transfer of a negotiable instrument was made before its maturity ;

as to time of transfer ;

(e) that the indorsements appearing upon a negotiable instrument were made in the order in which they appear thereon ;

as to order of indorsement ;

(f) that a lost promissory note, bill of exchange or cheque was duly stamped ;

as to stamp ;

(g) that the holder of a negotiable instrument is a holder in due course : Provided that where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration the burden of proving that the holder is a holder in due course lies upon him.

that holder is a holder in due course.

119. In a suit upon an instrument which has been dishonoured, the Court shall, on proof of the protest, presume the fact of dishonour, unless and until such fact is disproved.

Presumption on proof of protest.

120. No maker of a promissory note, and no drawer of a bill of exchange or cheque, and no acceptor of a bill of exchange for the honour of the drawer shall, in a suit thereon by a holder in due course, be permitted to deny the validity of the instrument as originally made or drawn.

Estoppel against denying original validity of instrument.

121. No maker of a promissory note and no acceptor of a bill of exchange [a] payable to order [a] shall, in a suit thereon by a holder in due course, be permitted to deny the payee's capacity, at the date of the note or bill, to indorse the same.

Estoppel against denying capacity of payee to indorse.

122. No indorser of a negotiable instrument shall, in a suit thereon by a subsequent holder, be permitted to deny the signature or capacity to contract of any prior party to the instrument.

Estoppel against denying signature or capacity of prior party.

[a] Substituted for the original by section 4 of Regulation II of 1921.

## CHAPTER XIV.

## OF CROSSED CHEQUES.

Cheque crossed generally.

123. Where a cheque bears across its face an addition of the words "and company" or any abbreviation thereof between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.

Cheque crossed specially.

124. Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

Crossing after issue.

125. Where a cheque is uncrossed, the holder may cross it generally or specially.

Where a cheque is crossed generally the holder may cross it specially.

Where a cheque is crossed generally or specially, the holder may add the words "not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent, for collection.

Payment of cheque crossed generally.

126. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Payment of cheque crossed specially.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

Payment of cheque crossed specially more than once.

127. Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

Payment in due course of crossed cheque.

128. Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

129. Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same is crossed, or his agent for collection, being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Payment of crossed cheque out of due course.

130. A person taking a cheque crossed generally or specially, bearing in either case the words "not negotiable," shall not have, and shall not be capable of giving a better title to the cheque than that which the person from whom he took it had.

Cheque bearing "not negotiable."

131. A banker who has in good faith and without negligence received payment for a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.

Non-liability of banker receiving payment of cheque.

[a] *Explanation.*—A banker receives payment of a crossed cheque for a customer within the meaning of this section notwithstanding that he credits his customer's account with the amount of the cheque before receiving payment thereof.

## CHAPTER XV.

### OF BILLS IN SETS.

132. Bills of exchange may be drawn in parts, each part being numbered and containing a provision that it shall continue payable only so long as the others remain unpaid. All the parts together make a set; but the whole set constitutes only one bill, and is extinguished when one of the parts, if a separate bill, would be extinguished.

Set of bills.

*Exception.*—When a person accepts or indorses different parts of the bill in favour of different persons, he and the subsequent indorsers of each part are liable on such part as if it were a separate bill.

133. As between holders in due course of different parts of the same set he who first acquired title to his part is entitled to the other parts and the money represented by the bill.

Holder of first acquired part entitled to all.

## CHAPTER XVI.

## OF INTERNATIONAL LAW.

Law govern-  
ing liability  
of acceptor or  
indorser of  
foreign in-  
strument.

134. In the absence of a contract to the contrary, the liability of the maker or drawer of a foreign promissory note, bill of exchange or cheque is regulated in all essential matters by the law of the place where he made the instrument, and the respective liabilities of the acceptor and indorser by the law of the place where the instrument is made payable.

*Illustration.*

A bill of exchange was drawn by A in California, where the rate of interest is 25 per cent., and accepted by B, payable in Washington where the rate of interest is 6 per cent. The bill is indorsed in Mysore, and is dishonoured. An action on the bill is brought against B in Mysore. He is liable to pay interest at the rate of 6 per cent. only; but, if A is charged as drawer, A is liable to pay interest at the rate of 25 per cent.

Law of place  
of payment  
governs dis-  
honour.

135. Where a promissory note, bill of exchange or cheque is made payable in a different place from that in which it is made or indorsed, the law of the place where it is made payable determines what constitutes dishonour and what notice of dishonour is sufficient.

*Illustration.*

A bill of exchange drawn and indorsed in Mysore, but accepted payable in France, is dishonoured. The indorsee causes it to be protested for such dishonour, and gives notice thereof in accordance with the law of France, though not in accordance with the rules herein contained in respect of bills which are not foreign. The notice is sufficient.

Instrument  
made, etc.,  
out of Mysore,  
but in accord-  
ance with  
its law.

136. If a negotiable instrument is made, drawn, accepted or indorsed out of Mysore, but in accordance with the law of Mysore, the circumstance that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into does not invalidate any subsequent acceptance or indorsement made thereon in Mysore.

Presumption  
as to foreign  
law.

137. The law of any foreign country regarding promissory notes, bills of exchange and cheques shall be presumed to be the same as that of Mysore, unless and until the contrary is proved.

## CHAPTER XVII.

## NOTARIES PUBLIC.

**138.** Government may, from time to time, by notification in the official Gazette, appoint any person, by name or by virtue of his office, to be a notary public under this Regulation and to exercise his functions as such within any local area, and may, by like notification, remove from office any notary public appointed under this Regulation.

Power to appoint notaries public.

**139.** Government may, from time to time, by notification in the official Gazette, make rules consistent with this Regulation for the guidance and control of notaries public appointed under this Regulation, and may, by such rules (among other matters), fix the fees payable to such notaries.

Power to make rules for notaries public.

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# The Mysore Companies Regulation.

(No. VIII of 1917.)

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## COMPANIES ESTABLISHED OUTSIDE MYSORE.

- 277. Requirements as to companies established outside Mysore.

## PART XI.

## SUPPLEMENTAL.

*Legal Proceedings, Offences, etc.*

- 278. Cognizance of offences.
- 279. Applications of fines.
- 280. Power to require limited company to give security for costs.
- 281. Power of Court to grant relief in certain cases.
- 282. Penalty for false statement.
- 283. Penalty for improper use of word "Limited."
- 283A. Penalty for non-compliance of requisition under section 11 (3).

## SECTIONS.

- 284. Saving of pending proceedings for winding up.
  - 285. Saving of document.
  - 286. Former registration offices, registers and registrars continued.  
[287 Not adopted.]
  - 288. Construction of "registrar of joint-stock companies" in Regulation, III of 1904.
  - 290. Repeal of enactment and savings.
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## THE SCHEDULES.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE THIRD SCHEDULE.

THE FOURTH SCHEDULE.

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# ACT No. VIII OF 1917.

*(Received the assent of His Highness the Maharaja  
on the 9th day of October 1917.)*

## Act to amend the Law relating to Trading Companies and other Associations.

Whereas it is expedient to amend the law relating to Trading Companies and other Associations; His Highness the Maharaja is pleased to enact as follows:—

### PART I.

#### *Preliminary.*

1. (1) This Act may be called the Mysore Companies Act, 1917. Short title,  
commence-  
ment and  
extent.

(2) It shall come into force on the first day of July 1918; and

(3) It extends to the whole of Mysore.

2. In this Act unless there is anything repugnant in the subject or context,—

(1) “articles” means the articles of association of a company as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained in Table A in the First Schedule annexed to the Mysore Companies Act, 1895, or in Table A in the First Schedule annexed to this Act. Definitions.

(2) “company” means a company formed and registered under this Act or an existing company:

(3) “the Court” means the Court having jurisdiction under this Act:

(4) “debenture” includes debenture stock:

(5) “director” includes any person occupying the position of a director by whatever name called:

(6) “District Court” means the principal Civil Court of original jurisdiction in a district:

(7) “existing company” means a company formed and registered under the Indian Companies

Act, 1866, or under the Mysore Companies Act, 1895 :

- (7a) "the Indian Companies Act, 1866," means Act X of 1866 as extended to Mysore :
- (8) "Insurance company" means a company that carries on the business of insurance either solely or in common with any other business or businesses :
- (9) "manager" includes any person occupying the position of a manager by whatever name called, and whether under a contract of service or not :
- (10) "memorandum" means the memorandum of association of a company as originally framed or as altered in pursuance of the provisions of this Act :
- (11) "officer" includes any director, manager or secretary but, save in sections 235, 236 and 237, does not include an auditor :
- (12) "prescribed" means as respects the provisions of this Act relating to the winding up of companies, prescribed by rules made by the High Court, and, as respects the other provisions of this Act, prescribed by the Government :
- (13) "private company" means, a company which
- (i) by its articles—
    - (a) restricts the right to transfer its shares ; and
    - (b) limits the number of its members (exclusive of persons who are in the employ of the company) to fifty ; and
    - (c) prohibits any invitation to the public to subscribe for any shares or debentures of the company ; and
  - (ii) continues to observe such restrictions, limitations and prohibitions :
- Provided that where two or more persons hold one or more shares in a company jointly they shall, for the purposes of this definition, be considered as a single member :
- (14) "prospectus" means any prospectus, notice, circular, advertisement or other invitation, offering to the public for subscription or purchase any shares or debentures of a company :

- (15) "the registrar" means a registrar or assistant registrar performing under this Act the duty of registration of companies; and
- (16) "share" means share in the share capital of the company, and includes stock except when a distinction between stock and shares is expressed or implied.

3. (1) The Court having jurisdiction under this Act shall be the High Court: Jurisdiction  
of the Courts.

Provided that the Government may by notification in the official Gazette and subject to such restrictions and conditions as it thinks fit, empower any District Court to exercise all or any of the jurisdiction by this Act conferred upon the Court, and in that case such District Court, shall, as regards the jurisdiction so conferred, be the Court in respect of all companies having their registered offices in the district.

(2) For the purposes of jurisdiction to wind up companies, the expression 'registered office' means the place which has longest been the registered office of the company during the six months immediately preceding the presentation of the petition for winding up.

(3) Nothing in this section shall invalidate a proceeding by reason of its being taken in a wrong Court.

## PART II.

### *Constitution and Incorporation.*

4. (1) No company, association or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking unless it is registered as a company under this Regulation. Prohibition  
of partner-  
ships exceed-  
ing certain  
number.

(2) No company, association or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the company, association or partnership, or by the individual members thereof, unless it is registered as a company under this Act.

### *Memorandum of Association.*

5. Any seven or more persons (or, where the company to be formed will be a private company, any two or Mode of form-  
ing incorpor-  
ated company

more persons) associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without limited liability (that is to say), either—

- (i) a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Act termed a company limited by shares); or
- (ii) a company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Act termed a company limited by guarantee); or
- (iii) a company not having any limit on the liability of its members (in this Act termed an unlimited company).

6. In the case of a company limited by shares—

(1) the memorandum shall state—

- (i) the name of the company with “Limited” as the last word in its name;

[(ii) Not adopted.]

- (iii) the objects of the company;

- (iv) that the liability of the members is limited;

- (v) the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount;

(2) no subscriber of the memorandum shall take less than one share;

(3) each subscriber shall write opposite to his name the number of shares he takes.

7. In the case of a company limited by guarantee—

(1) the memorandum shall state—

- (i) the name of the company, with “Limited” as the last word in its name;

[(ii) Not adopted.]

- (iii) the objects of the company;

- (iv) that the liability of the members is limited;

- (v) that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or

Memo-  
randum of  
company  
limited by  
shares.

Memo-  
randum of  
company  
limited by  
guarantee.

within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding a specified amount:

(2) if the company has a share capital—

- (i) the memorandum shall also state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount;
- (ii) no subscriber of the memorandum shall take less than one share;
- (iii) each subscriber shall write opposite to his name the number of shares he takes.

8. In the case of an unlimited company—

(1) the memorandum shall state—

- (i) the name of the company;
- (ii) the objects of the company;

(2) if the company has a share capital—

- (i) no subscriber of the memorandum shall take less than one share;
- (ii) each subscriber shall write opposite to his name the number of shares he takes.

9. The memorandum shall be signed by each subscriber in the presence of at least one witness who shall attest the signature.

10. A company shall not alter the conditions contained in its memorandum except in the cases and in the mode and to the extent for which express provision is made in this Act.

11. (1) A company shall not be registered by a name identical with that by which a company in existence is already registered, or so nearly resembling that name as to be calculated to deceive, except, where the company in existence is in the course of being dissolved and signifies its consent in such manner as the registrar requires.

(2) If a company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a company in existence is previously registered, or so nearly resembling it as to be calculated to deceive, the first-mentioned company may, with the sanction of the registrar, change its name.

Memo-  
randum of  
unlimited  
company.

Signature of  
memoran-  
dum.

Restriction  
on alteration  
of memoran-  
dum.

Name of  
company  
and change  
of name.



(3) A company shall not be registered by a name which contains any of the following words, namely,—“Maharaja,” “Royal” or words expressing or implying the sanction, approval or patronage of the Government, except where the Government signifies its consent to the use of such words as part of the name of the company by order in writing under the hand of one of the Secretaries to Government:

[a] Provided that, notwithstanding anything contained in section 290, the Government may, at any time, after serving a notice in writing giving reasons and after hearing objections, if any, thereto, pass an order requiring any company registered, either before or after the passing of this Act, under any enactment for the time being in force, with a name containing such words, to alter or omit those words within a period of three months from the date on which the order is communicated to the company.

(4) Any company may, by special resolution and subject to the approval of the Government signified in writing, under the hand of one of the Secretaries to the Government, change its name.

(5) Where a company changes its name, the registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case. On the issue of such a certificate, the change of name shall be complete.

(6) The change of name shall not affect any rights or obligations of the company or render defective any legal proceedings by or against the company; and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

Alteration of  
memoran-  
dum.

12. (1) Subject to the provisions of this Act, a company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as may be required to enable it—

- (a) to carry on its business more economically or more efficiently; or
- (b) to attain its main purpose by new or improved means; or
- (c) to enlarge or change the local area of its operations; or

(d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company ; or

(e) to restrict or abandon any of the objects specified in the memorandum.

(2) The alteration shall not take effect until and except in so far as it is confirmed by the Court on petition.

(3) Before confirming the alteration, the Court must be satisfied—

(a) that sufficient notice has been given to every holder of debentures of the company, and to any persons or class of persons whose interests will, in the opinion of the Court, be affected by the alteration ; and

(b) that, with respect to every creditor who, in the opinion of the Court, is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court :

Provided that the Court may, in the case of any person or class, for special reasons, dispense with the notice required by this section.

13. The Court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit, and may make such order as to costs as it thinks proper.

Power of Court when confirming alteration.

14. The Court shall, in exercising its discretion under sections 12 and 13, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interest of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members ; and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement :

Exercise of discretion by Court.

Provided that no part of the capital of the company may be expended in any such purchase.

Procedure on confirmation of the alteration.

**15.** (1) A certified copy of the order confirming the alteration, together with a printed copy of the memorandum as altered, shall, within three months from the date of the order, be filed by the company with the registrar, and he shall register the same, and shall certify the registration under his hand, and the certificate shall be conclusive evidence that all the requirements of this Act with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum so altered shall be the memorandum of the company.

(2) The Court may by order at any time extend the time for the filing of documents with the registrar under this section for such period as the Court thinks proper.

Effect of failure to register within three months.

**16.** No such alteration shall have any operation until registration thereof has been duly effected in accordance with the provision of section 15, and if such registration is not effected within three months next after the date of the order of the Court confirming the alteration, or within such further time as may be allowed by the Court in accordance with the provisions of section 15, such alteration and order and all proceedings connected therewith shall, at the expiration of such period of three months or such further time, as the case may be, become absolutely null and void :

Provided that the Court may, on sufficient cause shown, revive the order on application made within a further period of one month.

### *Articles of Association.*

Registration of articles.

**17.** (1) There may, in the case of a company limited by shares, and there shall, in the case of a company limited by guarantee or unlimited, be registered with the memorandum, articles of association signed by the subscribers to the memorandum and prescribing regulations for the company.

(2) Articles of association may adopt all or any of the regulations contained in Table A in the First Schedule.

(3) In the case of an unlimited company or a company limited by guarantee, the articles, if the company has a share capital, shall state the amount of share capital with which the company proposes to be registered.

(4) In the case of an unlimited company or a company limited by guarantee, if the company has not a share capital, the articles shall state the number of members with which the company proposes to be registered, for

the purpose of enabling the registrar to determine the fees payable on registration.

18. In the case of a company limited by shares and registered after the commencement of this Act, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations in Table A in the First Schedule, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

Application  
of Table A.

19. Articles shall—

- (a) be printed ;
- (b) be divided into paragraphs numbered consecutively ; and
- (c) be signed by each subscriber of the memorandum of association in the presence of at least one witness who must attest the signature.

Form and  
signature of  
articles.

20. Subject to the provisions of this Act and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles ; and any alteration or addition so made shall be as valid as if originally contained in the articles, and be subject in like manner to alteration by special resolution.

Alteration of  
articles by  
special resolu-  
tion.

### *General Provisions.*

21. (1) The memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by each member and contained a covenant on the part of each member, his heirs, and legal representatives, to observe all the provisions of the memorandum and of the articles, subject to the provisions of this Act.

Effect of  
memoran-  
dum and  
articles.

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

22. The memorandum and the articles (if any) shall be filed with the registrar who shall retain and register them.

Registration  
of memoran-  
dum and  
articles.

23. (1) On the registration of the memorandum of a company, the registrar shall certify under his hand that the company is incorporated, and in the case of a limited company, that the company is limited.

Effect of  
registration.

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the

memorandum, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act.

Conclusive-  
ness of certi-  
ficate of  
incorpora-  
tion.

24. (1) A certificate of incorporation given by the registrar in respect of any association shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association of a company authorised to be registered and duly registered under this Act.

(2) A declaration by an advocate entitled to appear before the High Court who is engaged in the formation of a company, or by a person named in the articles as a director, manager or secretary of the company, of compliance with all or any of the said requirements shall be filed with the registrar, and the registrar may accept such a declaration as sufficient evidence of compliance.

Copies of  
memoran-  
dum and  
articles to  
be given to  
members.

25. (1) Every company shall send to every member, at his request, and on payment of one rupee or such less sum as the company may prescribe, a copy of the memorandum and of the articles (if any).

(2) If a company makes default in complying with the requirements of this section, it shall be liable for each offence to a fine not exceeding ten rupees.

### *Associations not for Profit.*

Power to  
dispense  
with  
"Limited"  
in name of  
charitable  
and other  
companies.

26. (1) Where it is provided to the satisfaction of the Government that an association capable of being formed as a limited company has been or is about to be formed for promoting commerce, art, science, charity, or any other useful object, and applies or intends to apply its profits (if any) or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Government may, by license under the hand of one of its Secretaries, direct that the association be registered as a company with limited liability, without the addition of the word "Limited" to its name, and the association may be registered accordingly.

(2) A license by the Government under this section may be granted on such conditions and subject to such regulations as the Government thinks fit, and those conditions and regulations shall be binding on the association, and shall, if the Government so directs, be inserted in the memorandum and articles, or in one of those documents.

(3) The association shall on registration enjoy all the privileges of limited companies, and be subject to all their obligations, except those of using the word "Limited" as any part of its name and of publishing its name, and of filing lists of members and directors and managers with registrar.

(4) A license under this section may at any time be revoked by the Government, and upon revocation, the registrar shall enter the word "Limited" at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section ;

Provided that, before a license is so revoked, the Government shall give to the association notice in writing of its intention, and shall afford the association an opportunity of submitting a representation in opposition to the revocation.

### *Companies limited by Guarantee.*

27. (1) In the case of a company limited by guarantee and not having a share capital, and registered after the commencement of this Act, every provision in the memorandum or articles or in any resolution of the company purporting to give any person a right to participate in the divisible profit of the company otherwise than as a member shall be void.

(2) For the purpose of the provisions of this Regulation relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles, or in any resolution, of any company limited by guarantee and registered after the commencement of this Act, purporting to divide the undertaking of the company into shares or interests, shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby.

Provision as  
to companies  
limited by  
guarantee.

## PART III.

SHARE CAPITAL, REGISTRATION OF UNLIMITED COMPANY  
AS LIMITED, AND UNLIMITED LIABILITY OF DIRECTORS.*Distribution of Share Capital.*Nature of  
shares.

28. (1) The shares or other interest of any member in a company shall be movable property, transferable in manner provided by the articles of the company.

(2) Each share in a company having a share capital shall be distinguished by its appropriate number.

Certificates of  
shares or  
stock.

29. A certificate, under the common seal of the company, specifying any shares or stock held by any member, shall be *prima facie* evidence of the title of the member to the shares or stock therein specified.

Definition of  
"member."

30. (1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

Register of  
members.

31. (1) Every company shall keep in one or more books a register of its members, and enter therein the following particulars :—

- (i) the names and addresses, and the occupations, if any, of the members, and, in the case of a company having a share capital, a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member ;
- (ii) the date at which each person was entered in the register as a member ;
- (iii) the date at which any person ceased to be a member.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues ; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

32. (1) Every company having a share capital shall once at least in every year make a list of all persons who, on the day of the first or only ordinary general meeting in the year, are members of the company, and of all persons who have ceased to be members since the date of the last return or (in the case of the first return) of the incorporation of the company.

Annual list of members and summary.

(2) The list shall state the names, addresses, and occupations of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return or (in the case of the first return) of the incorporation of the company by persons who are still members and persons who have ceased to be members respectively, and the dates of registration of the transfers, and shall contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid-up otherwise than in cash, and specifying the following particulars :—

- (a) the amount of the share capital of the company, and the number of the shares into which it is divided ;
- (b) the number of shares taken from the commencement of the company up to the date of the return ;
- (c) the amount called up on each share ;
- (d) the total amount of calls received ;
- (e) the total amount of calls unpaid ;
- (f) the total amount of the sums (if any) paid by way of commission in respect of any shares or debentures, or allowed by way of discount in respect of any debentures, since the date of the last return ;
- (g) the total number of shares forfeited ;
- (h) the total amount of shares or stock for which share-warrants are outstanding at the date of the return ;
- (i) the total amount of share-warrants issued and surrendered respectively, since the date of the last return ;
- (k) the number of shares or amount of stock comprised in each share-warrant ;
- (l) the names and addresses of the persons who at the date of the return are the directors of the company and of the persons (if any) who



at the said date are the managers of the company ; and

- (m) the total amount of debt due from the company in respect of all mortgages and charges which are required to be registered with the registrar under this Act.

(3) The above list and summary shall be contained in a separate part of the register of members, and shall be completed within seven days after the day of the first or only ordinary general meeting in the year, and the company shall forthwith file with the registrar a copy signed by a director, manager or secretary of the company, together with the certificate from such director or by the manager or the secretary that the list and summary state the facts as they stood on the day aforesaid.

(4) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

Trusts not to be entered on register.

**33.** No notice of any trust, expressed, implied or constructive, shall be entered on the register, or be receivable by the registrar.

Registration of transfer at request of transferor.

**34.** On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the names of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

Transfer by legal representative.

**35.** A transfer of the share or other interest of a deceased member of a company made by his legal representative shall, although the legal representative is not himself a member, be as valid as if he had been a member at the time of the execution of the instrument of transfer.

Inspection of register of members.

**36.** (1) The register of members, commencing from the date of the registration of the company, shall be kept at the registered office of the company, and, except when closed under the provisions of this Act, shall during business hours (subject to such reasonable restrictions, as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member gratis, and to the inspection of any other person on payment of one rupee, or such less sum as the company may prescribe, for each inspection.

(2) Any member or other person may require a copy of the register, or of any part thereof, or of the list and summary required by this Act, or any part thereof, on payment of six annas for every hundred words or fractional part thereof required to be copied.

(3) If any inspection or copy required under this section is refused, the company shall be liable for each refusal to a fine not exceeding twenty rupees and to a further fine not exceeding twenty rupees for every day during which the refusal continues, and every officer of the company who knowingly authorises or permits the refusal shall be liable to the like penalty and the Court may by order compel an immediate inspection of the register.

37. A company may, on giving notice by advertisement in some newspaper circulating in the district in which the registered office of the company is situate, close the register of members for any time or times not exceeding in the whole thirty days in each year.

Power to  
close register

38. (1) If—

(a) the name of any person is fraudulently or without sufficient cause entered in or omitted from the register of members of a company ; or

Power of  
Court to rec-  
tify register.

(b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member ;  
the person aggrieved, or any member of the company, or the company, may apply to the Court for rectification of the register.

(2) The Court may either refuse the application or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved, and may make such order as to costs as it in its discretion thinks fit.

(3) On any application under this section the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand ; and generally may decide any question necessary or expedient to be decided for rectification of the register :

Provided that the Court may direct an issue to be tried in which any question of law may be raised ; and an

appeal from the decision on such an issue shall lie in the manner directed by the Code of Civil Procedure, 1911, on the grounds mentioned in section 100 of that Code.

Notice to  
registrar of  
rectification  
of register.

39. In the case of a company required by this Act to file a list of its members with the registrar, the Court, when making an order for rectification of the register, shall, by its order, direct notice of the rectification to be filed with the registrar.

Register to  
be evidence.

40. The register of members shall be *prima facie* evidence of any matters by this Act directed or authorised to be inserted therein.

Issue of  
share  
warrants to  
bearer.

43. A company limited by shares, if so authorised by its articles, may, with respect to any fully paid-up shares, or to stock, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the shares or stock included in the warrant, in this Regulation termed a share-warrant.

Effect of  
share-war-  
rant.

44. A share-warrant shall entitle the bearer thereof to the shares or stock therein specified, and the shares or stock may be transferred by delivery of the warrant.

Registration  
of name of  
bearer of  
share-war-  
rant.

45. The bearer of a share-warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register the name of a bearer of a share-warrant in respect of the shares or stock therein specified without the warrant being surrendered and cancelled.

Position of  
bearer of  
share-war-  
rant.

46. The bearer of a share-warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Act, either to the full extent or for any purposes defined in the articles, except that he shall not be qualified in respect of the shares or stock specified in the warrant for being a director or manager of the company, in cases where such a qualification is required by the articles.

Entries in  
register when  
share-war-  
rant issued.

47. (1) On the issue of a share-warrant the company shall strike out of register of members the name of the member then entered therein as holding the shares or stock specified in the warrant as if he had ceased to be a member,

and shall enter in the register the following particulars, namely :—

- (i) the fact of the issue of the warrant ;
- (ii) a statement of the shares or stock included in the warrant, distinguishing each share by its number ; and
- (iii) the date of the issue of the warrant.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully continues or permits the default shall be liable to the like penalty.

48. Until the warrant is surrendered, the above particulars shall be deemed to be the particulars required by this Act to be entered in the register of members ; and, on the surrender, the date of the surrender shall be entered as if it were the date at which a person ceased to be a member.

Surrender of share-warrant.

49. A company, if so authorised by its articles, may do any one or more of the following things, namely :—

- (1) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares ;
- (2) accept from any member who assents thereto the whole or a part of the amount remaining unpaid on any shares held by him although no part of that amount has been called up ;
- (3) pay dividend in proportion to the amount paid-up on each share where a larger amount is paid-up on some shares than on others.

Power of company to arrange for different amounts being paid on shares.

50. (1) A company limited by shares, if so authorised by its articles, may alter the conditions of its memorandum as follows (that is to say), it may—

- (a) increase its share capital by the issue of new shares of such amount as it thinks expedient ;
- (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares ;
- (c) convert all or any of its paid-up shares into stock and re-convert that stock into paid-up shares of any denomination ;

Power of company limited by shares to alter its share capital.

- (d) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived ;
- (e) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section with respect to sub-division of shares must be exercised by special resolution.

(3) Where any alteration has been made under this section in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

(4) If a company makes default in complying with the requirements of sub-section (3), it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made : and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

(5) A cancellaion of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Act.

Notice to  
registrar of  
consolidation  
of share  
capital con-  
version of  
share into  
stock, etc.

**51.** (1) Where a company having a share capital has consolidated and divided its share capital into shares of larger amount than its existing shares or converted any of its shares into stock, or re-converted stock into shares, it shall, within fifteen days of the consolidation and division, conversion or re-conversion, file notice with the registrar of the same, specifying the share consolidated and divided, or converted, or the stock re-converted.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for very day during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

**52.** Where a company having a share capital has converted any of its shares into stock, and filed notice of the conversion with the registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the share capital as is converted into stock; and the register of members of the company, and the list of members to be filed with the registrar, shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares hereinbefore required by this Act.

Effect of conversion of shares into stock.

**53.** (1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, and where a company not having a share capital has increased the number of its members beyond the registered number, it shall file with the registrar, in the case of an increase of share capital, within fifteen days after the passing, or in the case of a special resolution, the confirmation of the resolution authorising the increase, and in the case of an increase of members within fifteen days after the increase was resolved on or took place, notice of the increase of capital or members, and the registrar shall record the increase.

Notice of increase of share capital or of members.

(2) If a company makes a default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

**54.** (1) A company limited by shares may, by special resolution confirmed by an order of the Court, modify the conditions contained in its memorandum so as to recognize its share capital, whether by the consolidation of shares of different classes or by the division of its shares into shares of different classes:

Re-organization of share capital.

Provided that no preference or special privilege attached to or belonging to any class of shares shall be interfered with except by resolution passed by a majority in number of shareholders of that class holding three-fourths of the share capital of that class and confirmed at a meeting of shareholders of that class in the same manner as a special resolution of the company is required to be confirmed, and every resolution so passed shall bind all shareholders of the class.

(2) Where an order is made under this section, a certified copy thereof shall be filed with the registrar within twenty-one days after the making of the order or within such further time as the Court may allow, and the resolution shall not take effect until such a copy has been so filed.

*Reduction of Share Capital.*

Reduction of  
share capital.

**55.** (1) No company limited by shares shall have power to buy its own shares unless the consequent reduction of capital is effected and sanctioned in manner hereinafter provided.

(2) Subject to confirmation by the Court, a company limited by shares, if so authorised by its articles, may by special resolution reduce its share capital in any way, and in particular (without prejudice to the generality of the foregoing power) may—

- (a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up ; or
- (b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets ; or
- (c) either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company ;

and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(3) A special resolution under this section is in this Act called a resolution for reducing share capital.

Application  
to Court for  
confirming  
order.

**56.** Where a company has passed and confirmed a resolution for reducing share capital, it may apply by petition to the Court for an order confirming the reduction.

Addition to  
name of  
company of  
“and re-  
duced.”

**57.** On and from the confirmation by a company of a resolution for reducing share capital, or where the reduction does not involve either the diminution of any liability in respect of unpaid share capital, or the payment to any shareholder of any paid-up share capital, then on and from the presentation of the petition for confirming the reduction, the company shall add to its name, until such date as the Court may fix, the words “and reduced” as the

last words in its name, and those words shall, until that date, be deemed to be part of the name of the company :

Provided that, where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the Court may, if it thinks expedient, dispense altogether with the addition of the words “and deduced.”

58. (1) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital, or the payment to any shareholder of any paid-up share capital, and in any other case if the Court so directs, every creditor of the company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction.

Objections  
by creditors,  
and settle-  
ment of list  
of objecting  
creditors.

(2) The Court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible, without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction.

59. Where a creditor entered on the list of creditors whose debt or claim is not discharged or determined does not consent to the reduction, the Court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by appropriating, as the Court may direct, the following amount (that is to say),—

Power to dis-  
pense with  
consent of  
creditor on  
security  
being given  
for his debt.

(i) if the company admits the full amount of his debt or claim, or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim ;

(ii) if the company does not admit or is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the Court after the like inquiry and adjudication as if the company were being wound up by the Court.

60. The Court, if satisfied, with respect to every creditor of the company who under this Act is entitled

Order con-  
firming  
reduction.



to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has been determined or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

Registration  
of order  
and minute  
of reduction.

61. (1) The registrar on production to him of an order of the Court confirming the reduction of the share capital of a company, and on the filing with him of a certified copy of the order and of a minute (approved by the Court) showing, with respect to the share capital of the company as altered by the order, the amount of the share capital, the number of shares into which it is to be divided and the amount of each share, and the amount (if any) at the date of the registration deemed to be paid up on each share, shall register the order and minute.

(2) On the registration, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in such manner as the Court may direct.

(4) The registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Act with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

Minute to  
form part of  
memorandum.

62. (1) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum of the company, and shall be valid and alterable as if it had been originally contained therein, and shall be embodied in every copy of the memorandum issued after its registration.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

Liability of  
members in  
respect of  
reduced  
shares.

63. (1) A member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount paid, or (as the case may be) the reduced amount, if any, which is deemed to have been paid, on the share and the amount of the share as fixed by the minute:

Provided that, if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Act with respect to winding up by the Court, to pay the amount of his debt or claim, then—

- (i) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt, or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before that registration; and
- (ii) if the company is wound up, the Court, on the application of any such creditor and proof of his ignorance, as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list as if they were ordinary contributories in a winding up.

(2) Nothing in this section shall affect the rights of the contributories among themselves.

**64.** If any officer of the company wilfully conceals the name of any creditor entitled to object to the reduction or wilfully misrepresents the nature or amount of the debt or claim of any creditor, or if any officer of the company abets any such concealment or misrepresentation as aforesaid, every such officer shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Penalty on concealment of name of creditor.

**65.** In any case of reduction of share capital, the Court may require the company to publish as the Court directs the reasons for reduction, or such other information in regard thereto as the Court may think expedient with a view to give proper information to the public, and, if the Court thinks fit, the causes which led to the reduction.

Publication of reasons for reduction.

Increase and reduction of share capital in case of a company limited by guarantee having a share capital.

**66.** A company limited by guarantee and registered after the commencement of this Act may, if it has a share capital and is so authorised by its articles, increase or reduce its share capital in the same manner and subject to the same conditions in and subject to which a company limited by shares may increase or reduce its share capital under the provisions of this Act.

*Registration of Unlimited Company as Limited.*

Registration of unlimited company as limited.

**67.** (1) Subject to the provisions of this section, any company registered as unlimited may register under this Act as limited, or any company already registered as a limited company may re-register under this Act, but the registration of an unlimited company as a limited company shall not affect any debts, liabilities, obligations or contracts incurred or entered into by, to, with or on behalf of, the company before the registration, and those debts, liabilities, obligations and contracts may be enforced in manner provided by Part VIII of this Act in the case of a company registered in pursuance of that Part.

(2) On registration in pursuance of this section, the registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with copies of which he was furnished on the occasion of the original registration of the company; but save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Act.

Power of unlimited company to provide for reserve share capital on registration.

**68.** An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Act, do either or both of the following things, namely:—

- (a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the amount by which its capital is so increased shall be capable of being called up except in the event and for the purposes of the company being wound up;
- (b) provided that a specified portion of its uncalled share capital shall not be capable of being

called up except in the event and for the purposes of the company being wound up.

*Reserve Liability of Limited Company.*

69. A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

Reserve liability of limited company.

*Unlimited Liability of Directors.*

70. (1) In a limited company the liability of the directors or of any director may, if so provided by the memorandum, be unlimited.

Limited company may have directors with unlimited liability.

(2) In a limited company in which the liability of any director is unlimited, the directors of the company (if any) and the member who proposes a person for election or appointment to the office of director shall add to that proposal a statement that the liability of the person holding that office will be unlimited and the promoters and officers of the company, or one of them, shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(3) If any director or proposer makes default in adding such a statement, or if any promoter or officer of the company makes default in giving such a notice, he shall be liable to a fine not exceeding one thousand rupees and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default.

71. (1) A limited company, if so authorised by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors or of any director.

Special resolution of limited company making liability of directors unlimited.

(2) Upon the confirmation of any such special resolution, the provisions thereof shall be as valid as if they had been originally contained in the memorandum, and a copy thereof shall be embodied in or annexed to every copy of the memorandum issued after the confirmation of the resolution.

(3) If a company makes default in complying with the requirements of this section, it shall be liable to a fine

not exceeding ten rupees for each copy in respect of which default is made; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

## PART IV.

### MANAGEMENT AND ADMINISTRATION.

#### *Office and Name.*

Registered  
office of  
company.

72. (1) Every company shall have a registered office to which all communications and notices may be addressed.

(2) Notice in writing of the situation of the registered office, and of any change therein, shall be filed with the registrar who shall record the same.

(3) If a company carries on business without complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which it so carries on business.

Publication  
of name by a  
limited com-  
pany.

73. Every limited company—

- (a) shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in letters easily legible and in English and Kannada characters;
- (b) shall have its name engraved in legible characters on its seal;
- (c) shall have its name mentioned in legible English or Kannada characters in all bill-heads and letter paper and in all notices, advertisement, and other official publications of the company and in all bills of exchange, hundis, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts, and letters of credit of the company.

Penalties for  
non-publica-  
tion of name.

74. (1) If a limited company does not paint or affix, and keep painted or affixed, its name in manner directed by this Act it shall be liable to a fine not exceeding fifty rupees for not so painting or affixing its name, and for every day during which its name is not so kept painted or affixed, and every officer of the company who

knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

(2) If any officer of a limited company, or any person on its behalf, uses or authorises the use of any seal purporting to be a seal of the company whereon its name is not so engraven as aforesaid, or issues or authorises the issue of any bill-head, letter paper, notice, advertisement or other official publication of the company; or signs or authorises to be signed on behalf of the company any bill of exchange, hundi, promissory note, endorsement, cheque or order for money or goods, or issues or authorises to be issued any bill of parcels, invoice, receipt or letter of credit of the company wherein its name is not mentioned in manner aforesaid, he shall be liable to a fine not exceeding five hundred rupees, and shall further be personally liable to the holder of any such bill of exchange, hundi, promissory note, cheque or order for money or goods for the amount thereof, unless the same is duly paid by the company.

75. (1) Where any notice, advertisement or other official publication of a company contains a statement of the amount of the authorised capital of the company, such notice, advertisement or other official publication shall also contain a statement, in an equally prominent position and in equally conspicuous characters, of the amount of the capital which has been subscribed and the amount paid up.

Publication of authorised as well as subscribed and paid-up capital.

(2) Any company which makes default in complying with the requirements of this section and every officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding one thousand rupees.

### *Meetings and Proceedings.*

76. (1) A general meeting of every company shall be held once at the least in every year, and not more than fifteen months after the holding of the last preceding general meeting, and, if not so held, the company and every officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding five hundred rupees.

Annual general meeting.

(2) When default has been made in holding a meeting of the company in accordance with the provisions of this section, the Court may, on the application of any

member of the company, call or direct the calling of a general meeting of the company.

Statutory  
meeting of  
company.

77. (1) Every company limited by shares and registered after the commencement of this Act shall, within a period of six months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company, which shall be called the statutory meeting.

(2) The directors shall, at least ten days before the day on which the meeting is held, forward a report (in this Act called "the statutory report") to every member of the company and to every other person entitled under this Act to receive it.

(3) The statutory report shall be certified by not less than two directors of the company or, where there are less than two directors, by the sole director and shall state—

- (a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted ;
- (b) the total amount of cash received by the company in respect of all the shares allotted distinguished as aforesaid ;
- (c) an abstract of the receipts of the company whether from its share capital or from debentures, and of the payments made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout and particulars concerning the balance remaining in hand and an account or estimate of the preliminary expenses of the company ;
- (d) the names, addresses and descriptions of the directors, auditors (if any), managers (if any) and secretary of the company ;
- (e) the particulars of any contract, the modification of which is to be submitted to the meeting

for its approval, together with the particulars of the modification or proposed modification.

(4) The statutory report shall, so far as it relates to the shares allotted by the company and to the cash received in respect of such shares and to the receipts and payments of the company on capital account, be certified as correct by the auditors (if any) of the company.

(5) The directors shall cause a copy of the statutory report, certified as by this section required, to be filed with the registrar forthwith, after the sending thereof to the members of the company.

(6) Every director of the company who knowingly and wilfully authorises or permits a default in complying with the provisions of sub-section (2) or sub-section (5) shall be liable to a fine not exceeding twenty rupees for every day during which the default continues.

(7) The directors shall cause a list showing the names, descriptions and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

(8) The members of the company present at the meeting shall be at liberty to discuss any matters relating to the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.

(9) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(10) If a petition is presented to the Court in manner provided by Part V for winding up the company on the ground of default in filing the statutory report or in holding the statutory meeting, the Court may, instead of directing that the company be wound up, give directions for the statutory report to be filed or a meeting to be held, or make such other order as may be just.

(11) The provisions of this section as to the forwarding and filing of the statutory report shall not apply in the case of a private company.



Calling of  
extraordi-  
nary general  
meeting on  
requisition.

**78.** (1) Notwithstanding anything in the articles, the directors of a company which has a share capital shall, on the requisition of the holders of not less than one-tenth of the issued share capital of the company upon which all calls or other sums then due have been paid, forthwith proceed to call an extraordinary general meeting of the company.

(2) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If the directors do not proceed within twenty-one days from the date of the requisition being so deposited to cause a meeting to be called, the requisitionists, or a majority of them in value, may themselves call the meeting, but in either case any meeting so called shall be held within three months from the date of the deposit of the requisition.

(4) If at any such meeting a resolution requiring confirmation at another meeting is passed, the directors shall forthwith call a further extraordinary general meeting for the purpose of considering the resolution and, if thought fit, of confirming it as a special resolution and, if the directors do not call the meeting within seven days from the date of the passing of the first resolution, the requisitionists, or a majority of them in value, may themselves call the meeting.

(5) Any meeting called under this section by the requisitionists shall be called in the same manner, as nearly as possible, as that in which meetings are to be called by directors.

Provisions as  
to meetings  
and votes.

**79.** In default of, and subject to, any regulations in the articles,—

- (i) a meeting of a company may be called by fourteen days' notice in writing, served on every member in manner in which notices are required to be served by Table A in the First Schedule;
- (ii) five members may call a meeting;
- (iii) any person elected by the members present at a meeting may be chairman thereof; and
- (iv) every member shall have one vote.

80. A company which is a member of another company may, by resolution of the directors, authorise any of its officials or any other person to act as its representative at any meeting of that other company and the person so authorised shall be entitled to exercise the same powers on behalf of the company which he represents as if he were an individual shareholder of that other company.

Representa-  
tion of com-  
panies at  
meetings of  
other com-  
panies of  
which they  
are members.

81. (1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

Extraordi-  
nary and  
special reso-  
lutions.

(2) A resolution shall be a special resolution when it has been—

(a) passed in manner required for the passing of an extraordinary resolution; and

(b) confirmed by a majority of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a subsequent general meeting, of which notice has been duly given, and held after an interval of not less than fourteen days, nor more than one month, from the date of the first meeting.

(3) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a declaration of the chairman on a show of hands that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a poll may be demanded by three persons for the time being entitled according to the articles to vote, unless the articles of the company require a demand by such number of such persons, not in any case exceeding five, as may be specified in the articles.

(5) In a case where, if a poll is demanded, it may in accordance with the articles be taken in cash manner

as the chairman may direct, it may, if the chairman so directs, be taken at the meeting at which it is demanded.

(6) When a poll is demanded in accordance with this section, in computing the majority on the poll, reference shall be had to the number of votes to which each member is entitled by the articles of the company.

(7) For the purposes of this section notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by the articles.

Registration  
and copies of  
special and  
extraordi-  
nary resolu-  
tions.

**82.** (1) A copy of every special and extraordinary resolution shall, within fifteen days, from the confirmation of the special resolution or from the passing of the extraordinary resolution, as the case may be, be printed or typewritten and filed with the registrar who shall record the same.

(2) Where articles have been registered, a copy of every special resolution for the time being in force shall be embodied in or annexed to every copy of the articles issued after the date of the resolution.

(3) Where articles have not been registered, a copy of every special resolution shall be forwarded in print to any member, at his request, on payment of one rupee or such less sum as the company may direct.

(4) If a company makes default in so filing with the registrar a copy of a special or extraordinary resolution, it shall be liable to a fine not exceeding twenty rupees for every day during which the default continues.

(5) If a company makes default in embodying in or annexing to a copy of its articles or in forwarding in print to a member, when required by this section, a copy of a special resolution, it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made.

(6) Every officer of a company who knowingly and wilfully authorises or permits any default by the company in complying with the requirements of this section shall be liable to the like penalty as is imposed by this section on the company for that default.

proceedings  
of meetings  
and directors.

**83.** (1) Every company shall cause minutes of all proceedings of general meetings and of its directors to be entered in books kept for that purpose.

(2) Any such minute, if purporting to be signed by the chairman of the meeting at which the proceedings

were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Until the contrary is proved, every general meeting of the company or meeting of directors in respect of the proceedings whereof minutes have been so made shall be deemed to have been duly called and held, and all proceedings had thereat to have been duly had, and all appointments of directors or liquidators shall be deemed to be valid.

*Directors.*

**83A.** (1) Every company registered after the commencement of this Act shall have at least two directors. Directors  
obligatory.

(2) This section shall not apply to a private company.

**83B.** In default of and subject to any regulations in the articles of a company other than a private company— Appointment  
of directors.

- (i) the subscribers of the memorandum shall be deemed to be the directors of the company until the first directors shall have been appointed;
- (ii) the directors of the company shall be appointed by the members in the general meeting; and
- (iii) any casual vacancy occurring among the directors may be filled up by the directors, but the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last appointed a director.

**84.** A person shall not be capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in any prospectus issued by or on behalf of the company or in relation to any intended company or in any statement in lieu of prospectus filed by or on behalf of a company, unless before the registration of the articles or the publication of the prospectus, or the filing of the statement in lieu of prospectus, as the case may be, he has, by himself or by his agent authorised in writing— Restrictions  
on appointment or advertisement  
of director.

- (i) signed and filed with the registrar a consent in writing to act as such director; and
- (ii) save in the case of a company limited by guarantee and not having a share capital,

either signed the memorandum for a number of shares not less than his qualification (if any), or signed and filed with the registrar a contract in writing to take from the company and pay for his qualification shares (if any).

(2) On the application for registration of the memorandum and articles of a company, the applicant shall file with the registrar a list of the persons who have consented to be directors of the company, and, if this list contains the name of any person who has not so consented, the applicant shall be liable to a fine not exceeding five hundred rupees.

(3) This section shall not apply to a private company nor to a prospectus issued by or on behalf of a company after the expiration of one year from the date at which the company is entitled to commence business.

Qualification  
of director.

**85.** (1) Without prejudice to the restrictions imposed by section 84, it shall be the duty of every director who is by the articles required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the articles.

(2) The office of director of a company shall be vacated if the director does not, within two months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the expiration of such period or shorter time he ceases at any time to hold his qualification; and a person vacating office under this section shall be incapable of being re-appointed director of the company until he has obtained his qualification.

(3) If after the expiration of the said period or shorter time, any unqualified person acts as a director of the company, he shall be liable to a fine not exceeding fifty rupees for every day between the expiration of the said period or shorter time and the last day on which it is proved that he acted as a director.

Validity of  
acts of  
directors.

**86.** The acts of a director shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification: Provided that nothing in this section shall be deemed to give validity to acts done by a director after the appointment of such director has been shown to be invalid.

87. (1) Every company shall keep at its registered office a register containing the names and addresses and the occupations of its directors, and file with the registrar a copy thereof, and from time to time file with the registrar notice of any change among its directors or managers.

List of directors to be sent to registrar.

(2) If default is made in complying with this section, the company shall be liable to a fine not exceeding fifty rupees for every day during which the default continues; and every officer of the company, who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

### *Contracts.*

88. (1) Contracts on behalf of a company may be made as follows (that is to say):—

Form of contracts.

(i) any contract which, if made between private persons, would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the company in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged;

(ii) any contract which, if made between private persons, would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the company by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(2) All contracts made according to this section shall be effectual in law, and shall bind the company and its successors, and all other parties thereto, their heirs, or legal representatives, as the case may be.

89. A bill of exchange, hundi or promissory note shall be deemed to have been made, drawn, accepted or endorsed on behalf of the company if made, drawn, accepted or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority, express or implied.

Bills of exchange and promissory notes.

90. A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in Mysore; and

Execution of deeds abroad.

every deed signed by such attorney, on behalf of the company, and under his seal, where sealing is required, shall bind the company, and have the same effect as if it were under its common seal.

Power for  
company to  
have official  
seal for use  
abroad.

**91.** (1) A company whose objects require or comprise the transaction of business beyond the limits of Mysore may, if authorised by its articles, have for use in any territory, district or place not situate in Mysore, an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of every territory, district or place where it is to be used.

(2) A company having such an official seal may, by writing under its common seal, authorise any person appointed for the purpose in any territory, district or place not situate in Mysore to affix the same to any deed or other document to which the company is party in that territory, district or place.

(3) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period (of any) mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

(4) The person affixing any such official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and place of affixing the same.

(5) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company.

Disclosure of  
interest by  
director.

**91A.** (1) Every director who is directly or indirectly concerned or interested in any contract or arrangement entered into by or on behalf of the company shall disclose the nature of his interest at the meeting of the directors at which the contract or arrangement is determined on, if his interest then exists, or in any other case at the first meeting of the directors after the acquisition of his interest or the making of the contract or arrangement :

Provided that a general notice that a director is a member of any specified firm or company, and is to be regarded as interested in any subsequent transaction with such firm or company, shall, as regards any such transaction, be sufficient disclosure within the meaning of this sub-section and after such general notice, it shall not

be necessary to give any special notice relating to any particular transaction with such firm or company.

(2) Every director who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding one thousand rupees.

**91B.** (1) No director shall, as a director, vote on any contract or arrangement in which he is either directly or indirectly concerned or interested; and if he does so vote, his vote shall not be counted:

Prohibition of voting by interested director.

Provided that the directors or any of them may vote on any contract of indemnity against any loss which they or any one or more of them may suffer by reason of becoming or being sureties or surety for the company.

(2) Every director who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding one thousand rupees.

**91C.** (1) Where a company enters into a contract for the appointment of a manager of the company in which contract any director of the company is directly or indirectly concerned or interested or varies any such existing contract, the company shall send an abstract of the terms of such contract or variation, as the case may be, together with a memorandum clearly indicating the nature of the interest of the director in such contract, or in such variation, to every member; and the contract shall be open to the inspection of any member at the registered office of the company.

Disclosure to members in case of contract appointing a manager.

(2) If a company makes default in complying with the requirements of sub-section (1), it shall be liable to a fine not exceeding one thousand rupees; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

**91D.** (1) Every manager or other agent of a company other than a private company who enters into a contract for or on behalf of the company in which contract the company is an undisclosed principal, shall, at the time of entering into the contract, make a memorandum in writing of the terms of the contract, and specify therein the person with whom it has been made.

Contracts by agents of company in which company is undisclosed principal.

(2) Every such manager or other agent shall forthwith deliver the memorandum aforesaid to the company, and such memorandum shall be filed in the office of the company and laid before the directors at the next directors' meeting.



(3) If any such manager or other agent makes default in complying with the requirements of this section—

- (a) the contract shall, at the option of the company, be void as against the company; and
- (b) such manager or other agent shall be liable to fine not exceeding two hundred rupees.

### *Prospectus.*

Filing of prospectus.

**92.** (1) Every prospectus issued by or on behalf of a company or in relation to any intended company shall be dated and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus.

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorised in writing, shall be filed for registration with the registrar on or before the date of its publication, and no such prospectus shall be issued until a copy thereof has been so filed for registration.

(3) The registrar shall not register any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been filed for registration as required by this section.

(5) If a prospectus is issued without a copy thereof being so filed, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding fifty rupees for every day from the date of the issue of the prospectus until a copy thereof is so filed.

Specific requirements as to particulars of prospectus.

**93.** (1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, shall state—

- (a) the contents of the memorandum, with the names, descriptions and addresses of the signatories and the number of shares subscribed for by them respectively; and the number of founders or management or deferred shares (if any) and the nature and extent of the interest of the holders in the property and profits of the company; and
- (b) the number of shares (if any) fixed by the articles as the qualification of a director, and

any provision in the articles as to the remuneration of the directors ; and

- (c) the names, descriptions and addresses of the directors or proposed directors and of the managers or proposed managers (if any); and
- (d) the minimum subscription on which the directors may proceed to allotment, and the amount payable on application and allotment of each share ; and in the case of a second or subsequent offer of shares the amount offered for subscription on each previous allotment made within the two preceding years, and the amount actually allotted, and the amount (if any) paid on the shares so allotted ; and
- (e) the number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or agreed to be issued ; and
- (f) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares or debentures to the vendor, and where there is more than one separate vendor or the company is a sub-purchaser, the amount so payable to each vendor : Provided that where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors ; and
- (g) the amount (if any) paid or payable as purchase-money in cash, shares or debentures for any such property as aforesaid, specifying

the amount (if any) payable for goodwill ;  
and

- (h) the amount (if any) paid within the two preceding years or payable, as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, or the rate of any such commission : Provided that it shall not be necessary to state the commission payable to sub-under-writers ; and
- (i) the amount or estimated amount of preliminary expenses ; and
- (j) the amount paid within the two preceding years or intended to be paid to any promoter, and the consideration for any such payment ; and
- (k) the dates of, and parties to, every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected : Provided that this requirement shall not apply to a contract entered into in the ordinary course of business carried on or intended to be carried on by the company or to any contract entered into more than two years before the date of issue of the prospectus ; and
- (l) the names and addresses of the auditors (if any) of the company ; and
- (m) full particulars of the nature and extent of the interest (if any) of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company ; and
- (n) where the company is a company having shares of more than one class, the right of voting

at the meetings of the company conferred by the several classes of shares respectively.

(2) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement, it shall not be necessary in the advertisement to specify the contents of the memorandum, or the signatories thereto, and the number of shares subscribed for by them.

(3) This section shall not apply to a circular or notice inviting existing members or debenture holders of a company to subscribe either for shares or for debentures of the company, whether with or without the right to renounce in favour of other persons.

(4) The requirements of this section as to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions, and addresses of directors or proposed directors, and of managers or proposed managers, and the amount or estimated amount of preliminary expenses shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.

(5) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act apart from this section.

94. For the purposes of section 93, every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where—

Meaning of  
"vendor" in  
section 93.

(a) the purchase-money is not fully paid at the date of issue of the prospectus; or

(b) the purchase-money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or

(c) the contract depends for its validity or fulfilment on the result of that issue.

95. Where any of the property to be acquired by the company is to be taken on lease, section 93 shall apply as if the expression "vendor" included the lessor, and the expression "purchase-money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

Application  
of section 93  
to the case of  
property  
taken on  
lease.

96. Any conditions requiring or binding any applicant for shares or debentures to waive compliance with any requirements of section 93, or purporting to affect

Invalidity of  
certain condi-  
tions as to  
waiver or  
notice.

him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

Saving in certain cases of non-compliance with section 93.

97. In the event of non-compliance with any of the requirements of section 93, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance, if he proves that—

- (a) as regards any matter not disclosed, he was not cognisant thereof; or
- (b) the non-compliance arose from an honest mistake of fact on his part:

Provided that, in the event of non-compliance with the requirements contained in clause (m) of sub-section (1) of section 93, no such director or other person shall incur any liability in respect of the non-compliance unless it be proved that he had knowledge of the matters not disclosed.

Obligations of companies where no prospectus is issued.

98. (1) A company which does not issue a prospectus on or with reference to its information shall not allot any of its shares, or debentures unless before the first allotment of either shares or debentures there has been filed with the registrar a statement in lieu of prospectus signed by every person who is named therein as a director or a proposed director of the company or by his agent authorised in writing, in the form and containing the particulars set out in the Second Schedule.

(2) This section shall not apply to a private company or to a company which has allotted any shares or debentures before the commencement of this Act, or, in so far as it relates to the allotment of shares, to a company limited by guarantee and not having a share capital.

Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus.

99. A company shall not, at any time, vary the terms of a contract referred to in the prospectus or statement in lieu of prospectus, except subject to the approval of the company in general meeting.

Liability for statements in prospectus.

100. (1) Where a prospectus invites persons to subscribe for shares in or debentures of a company, every person who is a director of the company at the time of the issue of the prospectus, and every person who has authorised the naming of himself and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has

authorised the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for all loss or damage they may have sustained by reason of any misleading or untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved—

(a) with respect to every misleading or untrue statement not purporting to be made on the authority of an expert or of a public official document or statement that he had reasonable ground to believe and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement fairly represented the facts or was true ;

(b) with respect to every misleading or untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation : Provided that the director, person named as director, promoter or person who authorised the issue of the prospectus shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report or valuation was competent to make it ; and

(c) with respect to every misleading or untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document ;

or unless it is proved—

(i) that having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent ; or

- (ii) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent ; or
- (iii) that, after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any misleading or untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal and of the reason therefor.

(2) Where a company existing at the commencement of this Act has issued shares or debentures, and for the purpose of obtaining further capital by subscriptions for shares or debentures issues a prospectus, a director shall not be liable in respect of any statement therein, unless he has authorised the issue of the prospectus, or has adopted or ratified it.

(3) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorised or consented to the issue thereof, the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorised the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any suit or legal proceedings brought against him in respect thereof.

(4) Every person who by reason of his being a director or named as a director, or as having agreed to become a director, or of his having authorised the issue of the prospectus, becomes liable to make any payment under this section, may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

(5) For the purpose of this section—

- (a) the expression “promoter” means a promoter who was a party to the preparation of the prospectus, or the portion thereof contain-

ing the misleading or untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company ;

- (b) the expression “ expert ” includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him.

*Allotment.*

101. (1) No allotment shall be made of any share capital of a company offered to the public for subscription, unless the following conditions have been complied with, namely :—

Restriction as to allotment.

- (a) the amount (if any) fixed by the memorandum or articles and named in the prospectus as the minimum subscription upon which the directors may proceed to allotment ; or
- (b) if no amount is so fixed and named, then the whole amount of the share capital so offered for subscription ;

has been subscribed, and the sum payable on application for the amount so fixed and named, or for the whole amount offered for subscription, has been paid to and received in cash by the company.

(2) The amount so fixed and named and the whole amount aforesaid shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Act referred to as the minimum subscription.

(3) The amount payable on application on each share shall not be less than five per cent of the nominal amount of the share.

(4) If the conditions aforesaid have not been complied with on the expiration of one hundred and twenty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest, and, if any such money is not so repaid within one hundred and thirty days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of seven per cent per annum from the expiration of the one hundred and thirtieth day : Provided that a director shall not be liable if he proves that



the loss of the money was not due to any misconduct or negligence on his part.

(5) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(6) This section, except sub-section (3) thereof, shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

(7) In the case of the first allotment of share capital payable in cash of a company which does not issue any invitation to the public to subscribe for its shares, no allotment shall be made unless the minimum subscription (that is to say),—

- (a) the amount (if any) fixed by the memorandum or articles and named in the statement in lieu of prospectus as the minimum subscription upon which the directors may proceed to allotment; or
- (b) if no amount is so fixed and named, the whole amount of the share capital other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash;

has been subscribed and an amount not less than five per cent of the nominal amount of each share payable in cash has been paid to and received by the company.

(8) Sub-section (7) shall not apply to a private company or to a company which has allotted any shares or debentures before the commencement of this Act.

Effect of  
irregular  
allotment.

**102.** (1) An allotment made by a company to an applicant in contravention of the provisions of section 101 shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes or permits or authorises the contravention of any of the provisions of section 101 with respect to allotment, he shall be liable to compensate the company and the allottee respectively for any loss, damages or costs which the company or the allottee may have sustained or incurred thereby : Provided that proceedings to recover any

such loss, damages or costs shall not be commenced after the expiration of two years from the date of the allotment.

103. (1) A company shall not commence any business or exercise any borrowing power unless—

Restrictions  
on com-  
mencement  
of business.

(a) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and

(b) every director of the company has paid to the company on each of the shares taken or contracted to be taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription or, in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, on the shares payable in cash; and

(c) there has been filed with the registrar a duly verified declaration by the secretary or one of the directors, in the prescribed form, that the aforesaid conditions have been complied with; and

(d) in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, there has been filed with the registrar a statement in lieu of prospectus.

(2) The registrar shall, on the filing of a duly verified declaration, in accordance with the provisions of this section, certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled:

Provided that, in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, the registrar shall not give such a certificate unless a statement in lieu of prospectus has been filed with him.

(3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(4) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(5) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding five hundred rupees, for every day during which the contravention continues.

(6) Nothing in this section shall apply to a private company, or to a company registered before the commencement of this Act, which does not issue a prospectus inviting the public to subscribe for its shares or, in so far as its provisions relate to shares, to a company limited by guarantee and not having a share capital.

Return as to  
allotment.

**104.** (1) Whenever a company having a share capital makes any allotment of its shares, the company shall, within one month thereafter,—

- (a) file with the registrar a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses and descriptions of the allottees and the amount (if any) paid or due and payable on each share; and
- (b) in the case of shares allotted as fully or partly paid up otherwise than in cash, produce for the inspection and examination of the registrar a contract in writing constituting the title of the allottee to the allotment together with any contract of sale, or for services or other consideration in respect of which that allotment was made, such contracts being duly stamped, and file with the registrar copies verified in the prescribed manner of all such contracts and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(2) Where such a contract as above-mentioned is not reduced to writing, the company, shall, within one month after the allotment, file with the registrar the prescribed particulars of the contract, stamped with the same stamp-duty as would have been payable if the contract had been reduced to writing, and these particulars shall be deemed to be an instrument within the meaning of the Mysore Stamp Act, 1900, and the registrar

may, as a condition of filing the particulars, require that the duty payable thereon be adjudicated under section 31 of that Act.

(3) If default is made in complying with the requirements of this section, every officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding five hundred rupees for every day during which the default continues :

Provided that in the case of default in filing with the registrar within one month after the allotment any document required to be filed by this section, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission to file the document was accidental or due to inadvertence or that on other grounds it is just and equitable to grant relief, may make an order extending the time for the filing of the document for such a period as the Court may think proper.

#### *Commissions and Discounts.*

105. (1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company if the payment of the commission is authorised by the articles, and the commission paid or agreed to be paid does not exceed the amount or rate so authorised, and if the amount or rate per cent of the commission paid or agreed to be paid is,—

Power to pay certain commissions and prohibition of payment of all other commissions, discounts, etc.

- (a) in the case of shares offered to the public for subscription, disclosed in the prospectus ;
- (b) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and filed with the registrar and, where a circular or notice not being a prospectus inviting subscription for the shares is issued, also disclosed in that circular or notice.

(2) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance,

to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring, or agreeing to procure, subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase-money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase-money or contract price, or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay, and a vendor to, promoter of, or other person who receives payment in money or shares from, a company shall have, and shall be deemed always to have had, power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

Statement in  
balance sheet  
as to commis-  
sions and  
discounts.

106. Where a company has paid any sums by way of commission in respect of any shares or debentures, or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed or so much thereof as has not been written off, shall be stated in every balance-sheet of the company until the whole amount thereof has been written off

### *Payment of Interest out of Capital.*

Power of  
company to  
pay interest  
out of capital  
in certain  
cases.

107. Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the work or building, or the provision of plant :

Provided that :—

- (1) no such payment shall be made unless the same is authorised by the articles or by special resolution ;
- (2) no such payment, whether authorised by the articles or by special resolution, shall be made without the previous sanction of the Govern-

ment, which sanction shall be conclusive evidence, for the purposes of this section, that the shares of the company, in respect of which such sanction is given, have been issued for a purpose specified in this section ;

- (3) before sanctioning any such payment, the Government may, at the expense of the company, appoint a person to inquire and report to it as to the circumstances of the case, and may, before making the appointment, require the company to give security for the payment of the costs of the inquiry ;
- (4) the payment shall be made only for such period as may be determined by the Government ; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the works or buildings have been actually completed or the plant provided ;
- (5) the rate of interest shall in no case exceed four per cent per annum or such lower rate as the Government may, by notification in the official Gazette, prescribe ;
- (6) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid ;
- (7) the accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate.

### *Certificates of Shares, etc.*

108. (1) Every company shall, within three months after the allotment of any of its shares, debentures or debenture stock and, within three months after the registration of the transfer of any such shares, debentures or debenture stock, complete and have ready for delivery the certificate of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures or debenture stock otherwise provide.

Limitation of  
time for issue  
of certificates.

(2) If default is made in complying with the requirements of this section, the company, and every officer

of the company who is knowingly a party to the default, shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

*Information as to Mortgages, Charges, etc.*

Certain mortgages and charges to be void if not registered.

109. Every mortgage or charge created after the commencement of this Act by a company and being either—

- (a) a mortgage or charge for the purposes of securing any issue of debentures ; or
- (b) a mortgage or charge on uncalled share capital of the company ; or
- (c) a mortgage or charge on any immovable property wherever situate, or any interest therein ; or
- (d) a mortgage or charge on any book debts of the company ; or
- (e) a floating charge on the undertaking or property of the company ;

shall, so far as any security on the company's property or undertaking is thereby conferred, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the mortgage or charge together with the instrument (if any) by which the mortgage or charge is created or evidenced, or a copy thereof verified in the prescribed manner, are filed with the registrar for registration in manner required by this Act within twenty-one days after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured, and when a mortgage or charge becomes void under this section, the money secured thereby shall immediately become payable :

Provided that—

- (i) in the case of a mortgage or charge created out of Mysore, comprising solely property situate outside Mysore, twenty-one days after the date on which the instrument or copy could, in due course of post, and if despatched with due diligence, have been received in Mysore shall be substituted for twenty-one days after the date of the creation of the mortgage or charge, as the time within which the particulars and instrument or copy are to be filed with the registrar ; and

- (ii) where the mortgage or charge is created in Mysore but comprises property outside Mysore, the instrument creating or purporting to create the mortgage or charge, or a copy thereof verified in the prescribed manner, may be filed for registration, notwithstanding that further proceedings may be necessary to make the mortgage or charge valid or effectual according to the law of the country in which the property is situate; and
- (iii) where a negotiable instrument has been given to secure the payment of any book debts of a company, the deposit of the instrument for the purpose of securing an advance to the company shall not, for the purposes of this section, be treated as a mortgage or charge on those book debts; and
- (iv) the holding of debentures entitling the holder to a charge on immovable property shall not be deemed to be an interest in immovable property.

110. Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture-holders of that series are entitled *pari passu* is created by a company, it shall be sufficient for the purposes of section 109 if there are filed with the registrar within twenty-one days after the execution of the deed containing the charge or, if there is no such deed, after the execution of any debentures of the series, the following particulars:—

Particulars in case of series of debentures entitling holders *pari passu*.

- (a) the total amount secured by the whole series; and
- (b) the dates of the resolutions authorising the issue of the series and the date of the covering deed (if any) by which the security is created or defined; and
- (c) a general description of the property charged; and
- (d) the names of the trustees (if any) for the debenture-holders;

together with the deed or a copy thereof verified in the prescribed manner containing the charge, or if there is no such deed, one of the debentures of the series, and the registrar shall, on payment of the prescribed fee enter those particulars in the register :



Provided that, where more than one issue is made of debentures in the series, there shall be filed with the registrar for entry in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

Particulars in  
case of com-  
mission, etc.,  
on debentures

111. Where any commission, allowance or discount has been paid or made either directly or indirectly by the company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be filed for registration under sections 109 and 110 shall include particulars as to the amount or rate per cent of the commission, discount or allowance so paid or made, but an omission to do this shall not affect the validity of the debentures issued :

Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this provision be treated as the issue of the debentures at a discount.

Register of  
mortgages  
and charges.

112. (1) The registrar shall keep, with respect to each company, a register in the prescribed form of all the mortgages and charges created by the company after the commencement of this Act and requiring registration under section 109 and shall, on payment of the prescribed fee, enter in the register, with respect to every such mortgage or charge, the date of creation, the amount secured by it, short particulars of the property mortgaged or charged and the names of the mortgagees or persons entitled to the charge.

(2) After making the entry required by sub-section (1), the registrar shall return the instrument (if any) or the verified copy thereof, as the case may be, filed in accordance with the provisions of section 109 or section 110, to the person filing the same.

(3) The register kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee, not exceeding one rupee for each inspection.

Index to  
register of  
mortgages  
and charges.

113. The registrar shall keep a chronological index, in the prescribed form and with the prescribed particulars, of the mortgages or charges registered with him under this Act.

114. The registrar shall give a certificate under his hand of the registration of any mortgage or charge registered in pursuance of section 109, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of sections 109 to 112 as to registration have been complied with.

Certificate of registration.

115. The company shall cause a copy of every certificate of registration, given under section 114, to be endorsed on every debenture or certificate of debenture stock which is issued by the company, and the payment of which is secured by the mortgage or charge so registered :

Endorsement of certificate of registration on debenture or certificate of debenture stock.

Provided that nothing in this section shall be construed as requiring a company to cause a certificate of registration of any mortgage or charge so given to be endorsed on any debenture or certificate of debenture stock which has been issued by the company before the mortgage or charge was created.

116. (1) It shall be the duty of the company to file with the registrar, for registration, the prescribed particulars of every mortgage or charge created by the company and of the issues of debentures of a series requiring registration under section 109, but registration of any mortgage or charge may be effected on the application of any person interested therein.

Duty of company and right of interested party as regards registration.

(2) Where the registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the registrar on the registration.

117. Every company shall cause a copy of every instrument creating any mortgage or charge requiring registration under section 109, to be kept at the registered office of the company: Provided that, in the case of a series of uniform debentures, a copy of one such debenture shall be sufficient.

Copy of instrument creating mortgage or charge to be kept at registered office.

118. (1) If any person obtains an order for the appointment of a receiver of the property of a company, or appoints such a receiver under any powers contained in any instrument, he shall, within fifteen days from the date of the order or of the appointment under the powers contained in the instrument, file notice of the fact with the registrar, and the registrar shall, on payment of the prescribed fee, enter the fact in the register of mortgages and charges.

Registration of appointment of receiver.

(2) If any person makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Filing of  
accounts of  
receivers.

**119.** (1) Every receiver of the property of a company who has been appointed under the powers contained in any instrument, and who has taken possession, shall once in every half-year while he remains in possession, and also on ceasing to act as receiver, file with the registrar an abstract, in the prescribed form, of his receipts and payments during the period to which the abstract relates, and shall also, on ceasing to act as receiver, file with the registrar notice to that effect, and the registrar shall enter the notice in the register of mortgages and charges.

(2) Every receiver who makes default in complying with the provisions of this section shall be liable to a fine not exceeding five hundred rupees.

Rectification  
of register of  
mortgages.

**120.** The Court, on being satisfied that the omission to register a mortgage or charge within the time required by section 109, or that the omission or mis-statement of any particular with respect to any such mortgage or charge, was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or share-holders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any person interested, and on such terms and conditions as seem to the Court just and expedient, order that the time for registration be extended, or, as the case may be, that the omission or mis-statement be rectified, and may make such order as to the costs of the application as it thinks fit.

Entry of  
satisfaction.

**121.** The registrar may, on evidence being given to his satisfaction that the debt for which any registered mortgage or charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register, and shall, if required, furnish the company with a copy thereof.

Penalties.

**122.** (1) If any company makes default in filing with the registrar for registration the particulars—

(a) of any mortgage or charge created by the company; or

(b) of the issues of debentures of a series, requiring registration with the registrar under the fore-

going provisions of this Act, then, unless the registration has been effected on the application of some other person, the company, and every officer of the company or other person who is knowingly a party to the default shall, on conviction, be liable to a fine not exceeding five hundred rupees for every day during which the default continues.

(2) Subject as aforesaid, if any company makes default in complying with any of the requirements of this Regulation as to the registration with the registrar of any mortgage or charge created by the company, the company, and every officer of the company who knowingly and wilfully authorises or permits the default shall, without prejudice to any other liability, be liable on conviction to a fine not exceeding one thousand rupees.

(3) If any person knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock requiring registration with the registrar under the foregoing provisions of this Act without a copy of the certificate of registration being endorsed upon it, he shall, without prejudice to any other liability, be liable on conviction to a fine not exceeding one thousand rupees.

**123.** (1) Every limited company shall keep a register of mortgages and enter therein all mortgages and charges specifically affecting property of the company, giving in each case a short description of the property mortgaged or charged, the amount of the mortgage or charge and (except in the case of securities to bearer) the names of the mortgagees or persons entitled thereto.

Company's register of mortgages.

(2) If any director, manager or other officer of the company knowingly and wilfully authorises or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine not exceeding five hundred rupees.

**124.** (1) The copies kept at the registered office of the company in pursuance of section 117 of instruments creating any mortgage or charge requiring registration under this Act with the registrar, and the register of mortgages kept in pursuance of section 123 shall be open at all reasonable times to the inspection of any creditor or member of the company without fee, and the register of mortgages shall also be open to the inspection of any other person on payment of such fee, not exceeding one rupee for each inspection, as the company may prescribe.

Right to inspect copies of instruments creating mortgages and charges, and company's register of mortgages.

(2) If inspection of the said copies or register is refused, the company shall be liable to a fine not exceeding fifty rupees and a further fine not exceeding twenty rupees for every day during which the refusal continues, and every officer of the company who knowingly authorises or permits the refusal shall incur the like penalty, and in addition to the above penalty, the Court may by order compel an immediate inspection of the copies or register.

Right to inspect the register of debenture-holders and to have copies of trust deed.

**125.** (1) Every register of holders of debentures of a company shall except when closed in accordance with the articles during such period or periods (not exceeding in the whole thirty days in any year) as may be specified in the articles, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for inspection, and every such holder may require a copy of the register or any part thereof on payment of six annas for every one hundred words or fractional part thereof required to be copied.

(2) A copy of any trust-deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust-deed of the sum of one rupee or such less sum as may be prescribed by the company, or, where the trust-deed has not been printed, on payment of six annas for every one hundred words or fractional part thereof required to be copied.

(3) If inspection is refused, or a copy is refused or not forwarded, the company shall be liable to a fine not exceeding fifty rupees and to a further fine not exceeding twenty rupees for every day during which the refusal continues, and every officer of the company who knowingly authorises or permits the refusal shall incur the like penalty, and the Court may by order compel an immediate inspection of the register.

### *Debentures and Floating Charges.*

Perpetual debentures.

**126.** A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the passing of this Act, shall not be invalid by reason only that thereby the debentures are made irredeemable redeemable or only on the

happening of a contingency, however remote, or on the expiration of a period, however long.

127. (1) Where either before or after the commencement of this Act a company has redeemed any debentures previously issued, the company, unless the articles or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company so to do (not being an obligation enforceable only by the person to whom the redeemed debentures were issued or his assigns), shall have power, and shall be deemed always to have had power, to keep the debentures alive for the purposes of re-issue, and where a company has purported to exercise such a power, the company shall have power, and shall be deemed always to have had power, to re-issue the debentures, either by re-issuing the same debentures or by issuing other debentures in their place, and upon such re-issue, the person entitled to the debentures shall have, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

Power to  
re-issue  
redeemed  
debentures in  
certain cases.

(2) Where with the object of keeping debentures alive for the purpose of re-issue, they have, either before or after the commencement of this Act, been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a re-issue for the purposes of this section.

(3) Where a company has, either before or after the commencement of this Act, deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(4) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a company, whether the re-issue or issue was made before or after the commencement of this Act shall be treated as the issue of a new debenture for the purposes of stamp duty, but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued :

Provided that any person lending money on the security of a debenture re-issued under this section, which appears to be duly stamped, may give the debenture in

evidence in any proceedings for enforcing his security without payment of the stamp-duty or any penalty in respect thereof, unless he had notice or, but for his negligence, might have discovered, that the debenture was not duly stamped, but in any such case the company shall be liable to pay the proper stamp-duty and penalty.

(5) Nothing in this section shall prejudice—

(a) the operation of any decree or order of a Court of competent jurisdiction pronounced or made before the commencement of this Act, as between the parties to the proceedings in which the decree or order was made, and any appeal from any such decree or order shall be decided as if this Act had not been passed; or

(b) any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished, reserved to a company by its debentures or the securities for the same.

Specific performance of contract to subscribe for debentures.

128. A contract with a company to take up and pay for any debentures of the company may be enforced by a decree for specific performance.

Payments of certain debts out of assets subject to floating charge in priority to claims under the charge.

129. (1) Where either a receiver is appointed on behalf of the holders of any debentures of a company secured by a floating charge, or possession is taken by or on behalf of those debenture-holders of any property comprised in or subject to the charge, then if the company is not at the time in course of being wound up, the debts which in every winding up are under the provisions of Part V relating to preferential payments to be paid in priority to all other debts, shall be paid forthwith out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures.

(2) The periods of time mentioned in the said provisions of Part V shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

(3) Any payments made under this section shall be recouped, as far as may be, out of the assets of the company available for payment of general creditors.

*Statements, Books and Accounts.*

130. Every company shall keep proper books of account in which shall be entered full, true and complete accounts of the affairs and transactions of the company.

Company to keep proper books of account.

131. (1) Every company shall, once at least in every year and at intervals of not more than fifteen months, cause the accounts of the company to be balanced and a balance-sheet to be prepared.

Annual balance-sheet.

(2) The balance-sheet shall be audited by the auditor of the company as hereinafter provided, and the auditor's report shall be attached thereto, or there shall be inserted at the foot thereof a reference to the report, and the report shall be read before the company in general meeting and shall be open to inspection by any member of the company.

(3) Every company other than a private company shall send a copy of such balance-sheet so audited to the registered address of every member of the company at least seven days before the meeting at which it is to be laid before the members of the company, and shall deposit a copy at the registered office of the company for the inspection of the members of the company during a period of at least seven days before the meeting.

(4) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding one thousand rupees, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

132. (1) The balance-sheet shall contain a summary of the property and assets and of the capital and liabilities of the company giving such particulars as will disclose the general nature of those liabilities and assets and how the value of the fixed assets has been arrived at.

Contents of balance-sheet.

(3) The balance-sheet shall be in the form marked F in the Third Schedule or as near thereto as circumstances admit.

133. (1) Save as provided by sub-section (2) the balance-sheet shall,—

Authenticat-  
ion of  
balance-sheet.

(i) in the case of a banking company, be signed by the manager (if any) and, where there are more than three directors of the company, by at least three of those directors, and where there are not more than three directors, by all the directors ;



- (ii) in the case of any other company, be signed by two directors or, when there are less than two directors by the sole director and by the manager (if any) of the company.

(2) When the total number of directors of the company for the time being in Mysore is less than the number of directors whose signatures are required by sub-section (1), then the balance-sheet shall be signed by all the directors for the time being in Mysore, or, if there is only one director for the time being in Mysore, by such director, but in such a case there shall be sub-joined to the balance-sheet a statement signed by such directors or director explaining the reason for non-compliance with the provisions of sub-section (1).

(3) If any copy of a balance-sheet which has not been signed as required by this section is issued, circulated or published, the company and every officer of the company who is knowingly a party to the default shall be punishable with fine which may extend to five hundred rupees.

Copy of balance-sheet and auditor's report to be forwarded to the registrar.

**134.** (1) After the balance-sheet has been laid before the company at the general meeting, a copy thereof signed by the manager or secretary of the company shall be filed with the registrar at the same time as the copy of the annual list of members and summary prepared in accordance with the requirements of section 32.

(2) If the general meeting before which a balance-sheet is laid does not adopt the balance-sheet, a statement of that fact and of the reasons therefor shall be annexed to the balance-sheet and to the copy thereof required to be filed with the registrar.

(3) This section shall not apply to a private company.

(4) If a company makes default in complying with the requirements of this section, the company and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty as is provided by section 32 for a default in complying with the provisions of that section.

Right of member of company to copies of the balance-sheet and the auditor's report.

**135.** Save as otherwise provided in this Act, any member of a company shall be entitled to be furnished with copies of the balance-sheet and the auditor's report at a charge not exceeding six annas for every hundred words or fractional part thereof.

*Statement to be published by Banking and certain other Companies.*

136. (1) Every company being a limited banking company or an insurance company or a deposit, provident or benefit society shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked G in the Third Schedule, or as near thereto as circumstances will admit.

Certain companies to publish statement in schedule.

(2) A copy of the statement shall be displayed and, until the display of the next following statement, kept displayed in a conspicuous place in the registered office of the company, and in every branch office or place where the business of the company is carried on.

(3) Every member and every creditor of the company shall be entitled to a copy of the statement on payment of a sum not exceeding eight annas.

(4) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

*Investigation by the Registrar.*

137. (1) Where the registrar, on perusal of any document which a company is required to submit to him under the provisions of this Act, is of opinion that any information or explanation is necessary in order that such document may afford full particulars of the matter to which it purports to relate, he may, by a written order, call on the company submitting the document to furnish in writing such information or explanation within such time as he may specify in his order.

Power of registrar to call for information or explanation.

(2) On the receipt of an order under sub-section (1), it shall be the duty of all persons who are or have been officers of the company to furnish such information or explanation to the best of their power.

(3) If any such person refuses or neglects to furnish any such information or explanation, he shall be liable to a fine not exceeding fifty rupees in respect of each offence.

(4) On receipt of such information or explanation the registrar may annex the same to the original document submitted to him; and any additional document so annexed by the registrar shall be subject to the like provisions as to inspection and the taking of copies as the original document is subject.

(5) If such information or explanation is not furnished within the specified time, or if after perusal of such information or explanation the registrar is of opinion that the document in question discloses an unsatisfactory state of affairs, or that it does not disclose a full and fair statement of the matters to which it purports to relate, the registrar shall report in writing the circumstances of the case to the Government.

### *Inspection and Audit.*

Investigation  
of affairs of  
company by  
inspectors.

**138.** The Government may appoint one or more competent inspectors to investigate the affairs of any company and to report thereon in such manner as the Government may direct—

- (i) in the case of a banking company having a share capital, on the application of members holding not less than one-fifth of the shares issued;
- (ii) in the case of any other company having a share capital, on the application of members holding not less than one-tenth of the shares issued;
- (iii) in the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members;
- (iv) in the case of any company, on a report by the registrar under section 137, sub-section (5).

Application  
for inspection  
to be supported  
by evidence.

**139.** An application by members of a company under section 138 shall be supported by such evidence as the Government may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motive in, requiring the investigation; and the Government may before appointing an inspector, require the applicants to give security for payment of the costs of the inquiry.

Inspection of  
books and  
examination  
of officers.

**140.** (1) It shall be the duty of all persons who are or have been officers of the company to produce to the inspectors all books and documents in their custody or power relating to the company.

(2) An inspector may examine on oath any such person in relation to its business, and may administer an oath accordingly.

(3) If any person refuses to produce any book or document which under this section it is his duty to produce, or to answer any question relating to the affairs of the company, he shall be liable to a fine not exceeding fifty rupees in respect of each offence.

141. (1) On the conclusion of the investigation, the inspectors shall report their opinion to Government, and a copy of the report shall be forwarded by the Government to the registered office of the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them.

Results of examination how dealt with.

(2) The report shall be written or printed, as the Government directs.

(3) All expenses of, and incidental to, the investigation shall be defrayed by the applicants unless the Government directs the same to be paid by the company, which the Government is hereby authorised to do.

142. (1) A company may by special resolution appoint inspectors to investigate its affairs.

Power of company to appoint inspectors.

(2) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the Government, except that, instead of reporting to the Government, they shall report in such manner and to such persons as the company in general meeting may direct.

(3) All persons who are or have been officers of the company shall incur the like penalties in case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have incurred if the inspectors had been appointed by the Government.

143. A copy of the report of any inspectors appointed under this Act, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

Report of inspectors to be evidence.

144. (1) No person shall be appointed or act as an auditor of any company other than a private company unless he holds a certificate from the Government entitling him to act as an auditor of companies :

Qualifications and appointment of auditors.

Provided that the Government may, by notification in the official Gazette, declare that the members of any

institution or association specified in such notification shall be entitled to be appointed and to act as auditors of companies throughout Mysore.

(2) The Government shall, by notification in the official Gazette, make rules providing for the grant of certificates entitling the holders thereof to act as auditors of companies, and may by such rules provide the conditions and restrictions on and subject to which such certificate shall be granted. The holder of such a certificate shall be entitled to act as an auditor of companies throughout Mysore unless such certificate restricts or limits the exercise of the right.

(3) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(4) If an appointment of an auditor is not made at an annual general meeting, the Government may, on the application of any member of the company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(5) The following persons : that is to say,—

(i) a director or officer of the company ; and

(ii) a partner of such director or officer ; and

(iii) in the case of a company other than a private company, any person in the employment of such director, or officer,

shall not be appointed auditors of the company.

(6) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a member of the company to the company not less than fourteen days before such annual general meeting, and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to its members either by advertisement or in any other mode allowed by the articles not less than seven days before the annual general meeting :

Provided that, if after notice of the intention to nominate an auditor has been given to the company, an annual general meeting is called for a date fourteen days or less after the notice has been given, the requirements of this section as to time in respect of such a notice shall be deemed to have been satisfied, and the notice to be sent or

given by the company may, instead of being sent or given within the time required by this section, be sent or given at the same time as the notice of the annual general meeting.

(7) The first auditors of the company may be appointed by the directors before the statutory meeting, and if so appointed shall hold office until the first annual general meeting, unless previously removed by a resolution of the members of the company in general meeting, in which case such members at that meeting may appoint auditors.

(8) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues, the surviving or continuing auditor or auditors (if any) may act.

(9) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed before the statutory meeting, or to fill any casual vacancy, may be fixed by the directors.

**145.** (1) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

Powers and  
duties of  
auditors.

(2) The auditors shall make a report to the members of the company on the accounts examined by them, and on every balance-sheet laid before the company in general meeting during their tenure of office, and the report shall state—

- (a) whether or not they have obtained all the information and explanations they have required; and
- (b) whether in their opinion, the balance-sheet referred to in the report is drawn up in conformity with the law; and
- (c) whether such balance-sheet exhibits a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

(3) In the case of a banking company, if the company has branch banks beyond the limits of Mysore, it shall be sufficient if the auditor is allowed access to such

copies of and extracts from the books and accounts of any such branch as have been transmitted to the head office of the company in Mysore.

Rights of preference shareholders, etc., as to receipt and inspection of reports, etc.

**146.** (1) Holders of preference shares and debentures of a company shall have the same right to receive and inspect the balance-sheets of the company and the reports of the auditors and other reports as is possessed by the holders of ordinary shares in the company.

(2) This section shall not apply to a private company, nor to a company registered before the commencement of this Act.

*Carrying on business with less than the legal minimum of members.*

Liability for carrying on business with fewer than seven or in the case of a private company, two members.

**147.** If at any time the number of members of a company is reduced, in the case of a private company, below two, or in the case of any other company, below seven, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognisant of the fact that it is carrying on business with fewer than two members or seven members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be sued for the same without joinder in the suit of any other member.

*Service and Authentication of Documents.*

Service of documents on company.

**148.** A document may be served on a company by leaving it at, or sending it by post to, the registered office of the company.

Service of documents on registrar.

**149.** A document may be served on the registrar by sending it to him by post, or delivering it to him, or by leaving it for him at his office.

Authentication of documents.

**150.** A document or proceeding requiring authentication by a company may be signed by a director, secretary or other authorised officer of the company, and need not be under its common seal.

*Tables, Forms and Rules as to prescribed matters.*

Application and alteration of tables and forms, and power to make rules as to prescribed matters.

**151.** (1) The forms in the Third Schedule or forms as near thereto as circumstances admit shall be used in all matters to which those forms refer.

(2) The Government may alter any of the tables and forms in the First Schedule, so that it does not increase the amount of fees payable to the registrar in the said Schedule mentioned, and may alter or add to the forms in the Third Schedule.

(3) Any such table or form, when altered, shall be published in the official Gazette, and on such publication shall have effect as if enacted in this Act, but no alteration made by the Government in Table A in the First Schedule shall affect any company registered before the alteration, or repeal, as respects that company, any portion of that table.

(4) In addition to the powers herein before conferred by this section, the Government shall have power to make rules providing for all or any matters which by this Act are to be prescribed by its authority.

(5) Every such rule shall be published in the official Gazette, and on such publication shall have effect as if enacted in this Act.

### *Arbitration and Compromise.*

152. (1) A company may by written agreement refer to arbitration, in accordance with the Mysore Arbitration Act, 1917, an existing or future difference between itself and any other company or person.

Power for companies to refer matters to arbitration.

(2) Companies, parties to the arbitration, may delegate to the arbitrator power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by their directors or other managing body.

(3) The provisions of the Mysore Arbitration Act, 1917, other than those restricting the application of the Regulation in respect of the subject-matter of the arbitration, shall apply to all arbitrations between companies and persons in pursuance of this Act.

153. (1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the Court may, on the application in a summary way of the company or of any creditor or member of the company or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be called, held and conducted in such manner as the Court directs.

Power to compromise with creditors and members.



(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court, be binding on all the creditors or the class of creditors, or on all members or class of members, as the case may be, and also on the company, or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(3) In this section the expression "company" means any company liable to be wound up under this Regulation. .

*Conversion of Private Company into Public Company.*

Conversion of  
private into  
public com-  
pany.

**154.** (1) A private company may, subject to anything contained in its memorandum or articles, by a special resolution and by filing with the registrar a copy of such resolution and also such a statement in lieu of prospectus as the company, if a public company, would have had to file before allotting any of its shares or debentures, together with such a duly verified declaration as the company, if a public company, would have had to file before commencing business, turn itself into a public company.

(2) Upon the filing of the documents mentioned in sub-section (1), the registrar shall record the change in his books relating to the company.

**PART V.**

**WINDING UP.**

*Preliminary.*

Mode of  
winding up.

**155.** (1) The winding up of a company may be either—

- (i) by the Court ; or
- (ii) voluntary ; or
- (iii) subject to the supervision of the Court.

(2) The provisions of this Act with respect to winding up apply, unless the contrary appears, to the winding up of a company in any of these modes.

*Contributories.*

**156.** (1) In the event of a company being wound up, every present and past member shall, subject to the provisions of this section, be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the costs, charges and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves, with the qualifications following (that is to say) :—

Liability as contributories of present and past members.

- (i) a past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding up ;
- (ii) a past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member ;
- (iii) a past member shall not be liable to contribute unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act ;
- (iv) in the case of a company limited by shares, no contribution shall be required from any member exceeding the amount (if any) unpaid on the shares in respect of which he is liable as a present or past member ;
- (v) in the case of a company limited by guarantee, no contribution shall be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up ;
- (vi) nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract ;
- (vii) a sum due to any member of a company in his character of a member, by way of dividends, profits or otherwise, shall not be deemed to be a debt of the company payable to that member in a case of competition between himself and any other creditor not a member

of the company ; but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves.

(2) In the winding up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.

Liability of  
directors  
whose  
liability is  
unlimited.

**157.** In the winding up of a limited company, any director whether past or present, whose liability is, in pursuance of this Act, unlimited, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding up a member of an unlimited company :

Provided that—

- (i) a past director shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding up ;
- (ii) a past director shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office ;
- (iii) subject to the articles, a director shall not be liable to make such further contribution unless the Court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges and expenses of the winding up.

Meaning of  
“ contribu-  
tory.”

**158.** The term “ contributory ” means every person liable to contribute to the assets of a company in the event of its being wound up, and, in all proceedings for determining and in all proceedings prior to the final determination of the persons who are to be deemed contributories, includes any person alleged to be a contributory.

Nature of  
liability of  
contributory.

**159.** (1) The liability of a contributory shall create a debt accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

(2) No claim founded on the liability of a contributory shall be cognizable by any Court of Small Causes.

**160.** (1) If a contributory dies either before or after he has been placed on the list of contributories, his legal representatives and his heirs shall be liable in a due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly.

Contributor-  
ies in case of  
death of  
member.

(2) If the legal representatives or heirs make default in paying any money ordered to be paid by them, proceedings may be taken for administering the property of the deceased contributory, whether movable or immovable, or both, and of compelling payment thereof of the money due.

**161.** If a contributory is adjudged insolvent either before or after he has been placed on the list of contributories, then

Contributor-  
ies in case of  
insolvency of  
member.

- (1) his assignees shall represent him for all the purposes of the winding up, and shall be contributories accordingly, and may be called on to admit to proof against the estate of the insolvent, or otherwise to allow to be paid out of his assets in due course of law, any money due from the insolvent in respect of his liability to contribute to the assets of the company; and
- (2) there may be proved against the estate of the insolvent the estimated value of his liability to future calls as well as calls already made.

### *Winding up by Court.*

**162.** A company may be wound up by the Court—

- (i) if the company has by special resolution resolved that the company be wound up by the Court :
- (ii) if default is made in filing the statutory report or in holding the statutory meeting :
- (iii) if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year :
- (iv) if the number of members is reduced, in the case of a private company, below two or, in the case of any other company, below seven :
- (v) if the company is unable to pay its debts :
- [a] (vi) if the company fails to alter its name, when required to do so under proviso to sub-section 3 of section 11 :

Circumstan-  
ces in which  
company may  
be wound up  
by Court.

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[a] Inserted by section 2 of Regulation XVI of 1923.

(*vii*) if the Court is of opinion that it is just and equitable that the company should be wound up.

Company  
when deemed  
unable to  
pay its debts.

**163.** A company shall be deemed to be unable to pay its debts—

(*i*) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding five hundred rupees then due, has served on the company, by leaving the same at its registered office, a demand under his hand requiring the company to pay the sum so due and the company has for three weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor; or

(*ii*) if execution or other process issued on a decree or order of any Court in favour of a creditor of the company is returned unsatisfied in whole or in part; or

(*iii*) if it is proved to the satisfaction of the Court that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the Court shall take into account the contingent and prospective liabilities of the company.

Winding up  
may be  
referred to  
District  
Court.

**164.** Where the High Court makes an order for winding up a company under this Act, it may, if it thinks fit, direct all subsequent proceedings to be had in a District Court; and thereupon such District Court shall, for the purpose of winding up the company, be deemed to be "the Court" within the meaning of this Act, and shall have, for the purposes of such winding up, all the jurisdiction and powers of the High Court.

Transfer of  
winding up  
from one  
District  
Court to  
another.

**165.** If during the progress of a winding up in a District Court it is made to appear to the High Court that the same could be more conveniently prosecuted in any other District Court having jurisdiction to wind up companies, the High Court may transfer the same to such other Court, and thereupon the winding up shall proceed in such other District Court.

Provisions as  
to applica-  
tions for  
winding up.

**166.** An application to the Court for the winding up of a company shall be by petition presented, subject to the provisions of this section, either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by all or any of those parties, together or separately:

Provided that—

- (a) a contributory shall not be entitled to present a petition for winding up a company unless—
  - (i) either the number of members is reduced, in the case of a private company, below two, or, in the case of any other company, below seven; or
  - (ii) the shares in respect of which he is a contributory or some of them either were originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months before the commencement of the winding up, or have devolved on him through the death of a former holder;
- (b) a petition for winding up a company on the ground of default on filing the statutory report or in holding the statutory meeting shall not be presented by any person except a shareholder, nor before the expiration of fourteen days after the last day on which the meeting ought to have been held;
- (c) the Court shall not give a hearing to a petition for winding up a company by a contingent or prospective creditor until such security for costs has been given as the Court thinks reasonable and until a *prima facie* case for winding up has been established to the satisfaction of the Court.

**167.** An order for winding up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory. Effect of winding up order.

**168.** A winding up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding up. Commencement of winding up by Court.

**169.** The Court may, at any time after the presentation of the petition for winding up a company under this Act, and before making an order for winding up the company, upon the application of the company or of any creditor or contributory of the company, restrain further proceedings in any suit or proceeding against the company, upon such terms as the Court thinks fit. Court may grant injunction.

Powers of  
Court on  
hearing  
petition.

**170.** (1) On hearing the petition the Court may dismiss it with or without costs, or adjourn the hearing conditionally or unconditionally, or make any interim order or any other order that it deems just, but the Court shall not refuse to make a winding up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

(2) Where the petition is presented on the ground of default in filing the statutory report or in holding the statutory meeting, the Court may order the costs to be paid by any persons who, in the opinion of the Court, are responsible for the default.

Suits stayed  
on winding  
up order.

**171.** When a winding up order has been made, no suit or other legal proceeding shall be proceeded with or commenced against the company except by leave of the Court, and subject to such terms as the Court may impose.

Copy of wind-  
ing up order  
to be filed  
with registrar

**172.** (1) On the making of a winding up order, it shall be the duty of the company forthwith to file with the registrar a copy of the order, and the petitioner in the winding up proceedings may so file a copy.

(2) On the filing of a copy of a winding up order, the registrar shall make a minute thereof in his books relating to the company, and shall notify in the official Gazette that such an order has been made.

(3) Such order shall be deemed to be notice of discharge to the servants of the company, except when the business of the company is continued.

Power of  
Court to stay  
winding up.

**173.** The Court may at any time after an order for winding up, on the application of any creditor or contributory, and on proof to the satisfaction of the Court that all proceedings in relation to the winding up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the Court thinks fit.

Court may  
have regard  
to wishes of  
creditors or  
contribu-  
tories.

**174.** The Court may, as to all matters relating to a winding up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

### *Official Liquidators.*

Appointment  
of official  
liquidator.

**175.** (1) For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the Court may impose, the Court

may appoint a person or persons, to be called an official liquidator or official liquidators.

(2) The Court may make such an appointment provisionally at any time after the presentation of a petition and before the making of an order for winding up.

(3) If more persons than one are appointed to the office of official liquidator, the Court shall declare whether any act by this Act required or authorised to be done by the official liquidator is to be done by all or any one or more of such persons.

(4) The Court may determine whether any, and what, security is to be given by any official liquidator on his appointment.

(5) The acts of an official liquidator shall be valid notwithstanding any defect that may afterwards be discovered in his appointment: Provided that nothing in this sub-section shall be deemed to give validity to acts done by an official liquidator after his appointment has been shown to be invalid.

(6) A receiver shall not be appointed of assets in the hands of an official liquidator.

**176.** (1) Any official liquidator may resign or be removed by the Court on due cause shown.

Resignations,  
removals,  
filling up  
vacancies and  
compensation.

(2) Any vacancy in the office of an official liquidator appointed by the Court shall be filled up by the Court.

(3) There shall be paid to the official liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and, if more liquidators than one are appointed, such remuneration shall be distributed amongst them in such proportions as the Court directs.

**177.** The official liquidator shall be described by the style of the official liquidator of the particular company in respect of which he is appointed, and not by his individual name.

Official liquidator.

**178.** (1) The official liquidator shall take into his custody, or under his control, all the property, effects and actionable claims to which the company is or appears to be entitled.

Custody of  
company's  
property.

(2) If no official liquidator is appointed, or during any vacancy in such appointment, all the property of the company shall be deemed to be in the custody of the Court.

**179.** The official liquidator shall have power, with the sanction of the Court, to do the following things:—

Powers of  
official liquidator.



- (a) to institute or defend any suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the company ;
- (b) to carry on the business of the company so far as may be necessary for the beneficial winding up of the same ;
- (c) to sell the immovable and movable property of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels ;
- (d) to do all acts and to execute, in the name and on behalf of the company , all deeds, receipts, and other documents, and for that purpose to use, when necessary, the company's seal ;
- (e) to prove, rank and claim in the insolvency of any contributory, for any balance against his estate, and to receive dividends in the insolvency, in respect of that balance, as a separate debt due from the insolvent, and rateably with the other separate creditors ;
- (f) to draw, accept, make and endorse any bill of exchange, hundi or promissory note in the name and on behalf of the company with the same effect with respect to the liability of the company as if the bill, hundi or note had been drawn, accepted, made or endorsed by or on behalf of the company in the course of its business ;
- (g) to raise on the security of the assets of the company any money requisite ;
- (h) to take out, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company ; and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself ;
- (i) to do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

**180.** The Court may provide by any order that the official liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an official liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

Discretion of official liquidator.

**181.** The official liquidator may, with the sanction of the Court, appoint an advocate, or pleader entitled to appear before the Court to assist him in the performance of his duties.

Provision for legal assistance to official liquidator.

**182.** The official liquidator of a company which is being wound up by the Court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the Court, personally or by his agent inspect any such books.

Official books to be kept by liquidator in winding up.

**183.** (1) Subject to the provisions of this Act the official liquidator of a company which is being wound up by the Court shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting.

Exercise and control of liquidator's powers.

(2) The official liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories, as the case may be.

(3) The official liquidator may apply to the Court in manner prescribed for directions in relation to any particular matter arising in the winding up.

(4) Subject to the provisions of this Act, the official liquidator shall use his own discretion in the administration of the assets of the company and in the distribution thereof among the creditors.

(5) If any person is aggrieved by any act or decision of the official liquidator, that person may apply to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order as it thinks just in the circumstances.

*Ordinary Powers of Court.*

Settlement of list of contributories and application of assets.

**184.** (1) As soon as may be after making a winding up order, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Act and shall cause the assets of the company to be collected and applied in discharge of its liabilities.

(2) In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right and persons who are contributories as representatives of or liable for the debts of others.

Power to require delivery of property.

**185.** The Court may, at any time after making a winding up order, require any contributory for the time being settled on the list of contributories and any trustee, receiver, banker, agent, or officer of the company to pay, deliver, surrender or transfer forthwith, or within such time as the Court directs, to the official liquidator any money, property or documents in his hands to which the company is *prima facie* entitled.

Power to order payment of debts by contributory.

**186.** (1) The Court may, at any time after making a winding up order, make an order on any contributory for the time being settled on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the company exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

(2) The Court in making such an order may, in the case of an unlimited company, allow to the contributory by way of set-off any money due to him or to the estate which he represents from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and may, in the case of a limited company, make to any director whose liability is unlimited or to his estate the like allowance:

Provided that, in the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

Power of Court to make calls.

**187.** (1) The Court may, at any time after making a winding up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of

the contributories to the extent of their liability, for payment of any money which the Court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves.

(2) In making the call the Court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

**188.** The Court may order any contributory, purchaser or other person from whom money is due to the company to pay the same into any bank approved by Government or any branch thereof, to the account of the official liquidator, instead of to the official liquidator, and any such order may be enforced in the same manner as if it had directed payment to the official liquidator.

Power to order payment into bank.

**189.** All moneys, bills, hundis, notes and other securities paid and delivered into any bank approved by Government or any branch thereof, in the event of a company being wound up by the Court, shall be subject in all respects to the orders of the Court.

Regulation of account with Court.

**190.** (1) An order made by the Court on a contributory shall, subject to any right of appeal, be conclusive evidence that the money, if any, thereby appearing in be due or ordered to be paid is due.

Order on contributory conclusive evidence.

(2) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons, and in all proceedings whatsoever.

**191.** The Court may fix a time or times within which creditors are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

Power to exclude creditors not proving in time.

**192.** The Court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto.

Adjustment of rights of contributories.

**193.** The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges and expenses incurred in the winding up in such order of priority as the Court thinks just.

Power to order costs.

**194.** (1) When the affairs of a company have been completely wound up, the Court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

Dissolution of Company.

(2) The order shall be reported within fifteen days of the making thereof by the official liquidator to the registrar, who shall make in his books a minute of the dissolution of the company.

(3) If the official liquidator makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees for every day luring which he is in default.

### *Extraordinary Powers of Court.*

Power to  
summon per-  
sons suspect-  
ed of having  
property of  
company.

**195.** (1) The Court may, after it has made a winding up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company, or supposed to be indebted to the company, or any person whom the Court deems capable of giving information concerning the trade, dealings, affairs or property of the company.

(2) The Court may examine him on oath concerning the same, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(3) The Court may require him to produce any documents in his custody or power relating to the company; but, where he claims any lien on documents produced by him, the production shall be without prejudice to that lien, and the Court shall have jurisdiction in the winding up to determine all questions relating to that lien.

(4) If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, not having a lawful impediment (made known to the Court at the time of its sitting, and allowed by it), the Court may cause him to be apprehended and brought before the Court for examination.

Power to  
order public  
examination  
of promoters,  
directors, etc.

**196.** (1) When an order has been made for winding up a company by the Court, and the official liquidator has applied to the Court stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company or by any director or other officer of the company in relation to the company since its formation, the Court may, after consideration of the application, direct that any person who has taken any part in the promotion or formation of the company, or has been a director, manager or other officer of the company shall attend before the Court on a day appointed by

the Court for that purpose, and be publicly examined as to the promotion or formation or the conduct of the business of the company, or as to his conduct and dealings as director, manager or other officer thereof.

(2) The official liquidator shall take part in the examination, and for that purpose may, if specially authorised by the Court in that behalf, employ such legal assistance as may be sanctioned by the Court.

(3) Any creditor or contributory may also take part in the examination either personally or by any person entitled to appear before the Court.

(4) The Court may put such questions to the person examined as the Court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all such questions as the Court may put or allow to be put to him.

(6) A person ordered to be examined under this section may at his own cost employ any person entitled to appear before the Court, who shall be at liberty to put to him such questions as the Court may deem just for the purpose of enabling him to explain or qualify any answers given by him: Provided that if he is, in the opinion of the Court, exculpated from any charges made or suggested against him, the Court may allow him such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him in civil proceedings and shall be open to the inspection of any creditor or contributory at all reasonable times.

(8) The Court may, if it thinks fit, adjourn the examination from time to time.

(9) An examination under this section may, if the Court so directs, and subject to any rules in this behalf, be held before any District Judge or before any officer of the High Court, being an official referee, registrar or deputy registrar, and the powers of the Court under this section as to the conduct of the examination, but not as to costs, may be exercised by the person before whom the examination is held.

**197.** The Court, at any time either before or after making a winding up order on proof of probable cause for believing that a contributory is about to quit Mysore or otherwise to abscond, or to remove or conceal any of his

Power to  
arrest  
absconding  
contributory.

property, for the purpose of evading payment of calls or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested and his books and papers and movable property to be seized, and him and them to be safely kept until such time as the Court may order.

Saving of  
other pro-  
ceedings.

**198.** Any powers by this Act conferred on the Court shall be in addition to, and not in restriction of, any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

### *Enforcement of and Appeal from Orders.*

Power to  
enforce  
orders.

**199.** All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

Order made  
in any Court  
to be enforced  
by other  
Courts.

**200.** Any order made by a Court for or in the course of the winding up of a company shall be enforced in any place in Mysore other than that in which such Court is situate, by the Court that would have had jurisdiction in respect of such company if the registered office of the company had been situate at such other place, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

Mode of deal-  
ing with  
orders to be  
enforced by  
other Courts.

**201.** Where any order made by one Court is to be enforced by another Court, a certified copy of the order so made shall be produced to the proper officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order having been made; and thereupon the last mentioned Court shall take the requisite steps in the matter for enforcing the order in the same manner as if it were the order of the Court enforcing the same.

Appeals from  
orders.

**202.** Re-hearings of, and appeals from, any order or decision made or given in the matter of the winding up of a company by the Court may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction.

*Voluntary winding up.*

**203.** A company may be wound up voluntarily :

Circumstances in which company may be wound up voluntarily.

- (1) when the period (if any) fixed for the duration of the company by the articles expires, or the event (if any) occurs, on the occurrence of which the articles provide that the company is to be dissolved and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily :
- (2) If the company resolves by special resolution that the company be wound up voluntarily ;
- (3) if the company resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.

**204.** A voluntary winding up shall be deemed to commence at the time of the passing of the resolution authorising the winding up.

Commencement of voluntary winding up.

**205.** When a company is wound up voluntarily, the company shall, from the commencement of the winding up, cease to carry on its business, except so far as may be required for the beneficial winding up thereof:

Effect of voluntary winding up on status of company.

Provided that the corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

**206.** (1) Notice of any special resolution or extraordinary resolution for winding up a company voluntarily shall be given by the company within ten days of the passing of the same by advertisement both in English and in Kannada in the official Gazette, and also in some newspaper (if any) circulating in the district where the registered office of the company is situated.

Notice of resolution to wind up voluntarily.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues ; and every officer of the company who knowingly and willfully authorises or permits the default shall be liable to a like penalty.

**207.** The following consequences shall ensue on the voluntary winding up of a company :—

Consequences of voluntarily winding up.

- (i) the assets of the company shall be applied in satisfaction of its liabilities *pari passu* and, subject thereto, shall, unless the articles



otherwise provide, be distributed among the members according to their rights and interests in the company ;

- (ii) the company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them ;
- (iii) on the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance thereof ;
- (iv) the liquidator may, without the sanction of the Court exercise all powers given by this Act in relation to the official liquidator in a winding up by the Court ;
- (v) the liquidator may exercise the powers of the Court under this Act of settling a list of contributories, and of making calls, and shall pay the debts of the company, and adjust the rights of the contributories among themselves ;
- (vi) the list of contributories shall be *prima facie* evidence of the liability of the persons named therein to be contributories ;
- (vii) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined by the company at the time of their appointment, or in default of such determination by any number not less than two ;
- (viii) if from any cause whatever there is no liquidator acting, the Court may, on the application of a contributory, appoint a liquidator ; and
- (ix) the Court may, on cause shown, remove a liquidator, and appoint another liquidator.

Notice by  
liquidator of  
his appoint-  
ment.

**208.** (1) The liquidator in a voluntary winding up shall, within twenty-one days after his appointment, file with the registrar a notice of his appointment in the form prescribed.

(2) If the liquidator fails to comply with the requirements of this section, he shall be liable to a fine not

exceeding fifty rupees for every day during which the default continues

**209.** (1) Every liquidator appointed by a company in a voluntary winding up shall, within seven days from his appointment, send notice by post to all persons who appear to him to be creditors of the company that a meeting of the creditors of the company will be held on a date, not being less than twenty-one days nor more than one month after his appointment, and at a place and hour, to be specified in the notice, and shall also advertise notice of the meeting once in the official Gazette and once at least in some newspaper (if any) circulating in the district where the registered office or principal place of business of the company was situate.

Rights of  
creditors in  
voluntary  
winding up.

(2) At the meeting to be held in pursuance of the foregoing provisions of this section, the creditors shall determine whether an application shall be made to the Court for the appointment of any person as liquidator in the place of, or jointly with, the liquidator appointed by the company, and, if the creditors so resolve, an application may be made accordingly to the Court at any time not later than fourteen days after the date of the meeting, by any creditor appointed for the purpose at the meeting :

Provided that the Court may, by order at any time, extend the time for making an application under this subsection for such period as the Court thinks proper.

(3) On any such application the Court may make an order either for the removal of the liquidator appointed by the company and for the appointment of some other person as liquidator or for the appointment of some other person to act as liquidator jointly with the liquidator appointed by the company, or such other order as, having regard to the interests of the creditors and contributories of the company, may seem just.

(4) The Court shall make such order as to the costs of the application as it may think fit, and, if it is of opinion that, having regard to the interests of the creditors in the liquidation, there were reasonable grounds for the application, may order the costs of the application to be paid out of the assets of the company, notwithstanding that the application is dismissed or otherwise disposed of adversely to the applicant.

**210.** (1) If a vacancy occurs by death, resignation or otherwise in the office of liquidator appointed by the company in a voluntary winding up, the company in

Power to fill  
vacancy in  
office of liqui-  
dator.

general meeting may, subject to any arrangement with its creditors, fill the vacancy.

(2) For that purpose a general meeting may be called by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(3) The meeting shall be held in manner prescribed by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the Court.

Delegation of authority to appoint liquidators.

**211.** (1) A company about to be, or in course of being, wound up voluntarily may, by extraordinary resolution, delegate to its creditors, or to any committee of them, the power of appointing liquidators or any of them, and of supplying vacancies among the liquidators, or enter into any arrangement with respect to the powers to be exercised by the liquidators, and the manner in which they are to be exercised.

(2) Any act done by creditors in pursuance of any such delegated power shall have the same effect as if it had been done by the company.

Arrangement when binding on creditors.

**212.** (1) Any arrangement entered into between a company about to be, or in the course of being, wound up voluntarily and its creditors shall, subject to any right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the Court against it, and the Court may thereupon, as it thinks just, amend, vary or confirm the arrangement.

Power for liquidators to accept shares, etc., as a consideration for sale of property of company.

**213.** (1) Where a company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company (in this section called the transferee company) the liquidator of the first mentioned company (in this section called the transferor company) may, with the sanction of a special resolution of that company conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive, in compensation or part compensation for the transfer or sale, shares, policies or other like interests in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members

of the transferor company may, in lieu of receiving cash, shares, policies or other like interest, or in addition thereto, participate in the profits of, or receive any other benefit from, the transferee company.

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company who did not vote in favour of the special resolution at either of the meetings held for passing and confirming the same expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the confirmation of the special resolution, he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration in manner hereinafter provided.

(4) If the liquidator elects to purchase the member's interest, the purchase money must be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for winding up the company, or for appointing liquidators; but if an order is made within a year for winding up the company by or subject to the supervision of the Court, the special resolution shall not be valid unless sanctioned by the Court.

**214.** (1) The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement. If the parties dispute about the same, such dispute shall be settled by arbitration.

Mode of  
determining  
price.

(2) The provisions of the Mysore Arbitration Act, 1917, other than those restricting the application of the Regulation in respect of the subject-matter of the arbitration, shall apply to all arbitrations in pursuance of this section.

**215.** (1) Where a company is being wound up voluntarily, the liquidator or any contributory or creditor may apply to the Court to determine any question arising in the winding up, or to exercise as respects the enforcing of calls, or any other matters, all or any of the powers which the Court might exercise if the company were being wound up by the Court.

Power to  
apply to  
Court.

(2) The Court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as the Court thinks fit, or may make such other order on the application as the Court thinks just.

Power of liquidator to call general meeting.

**216.** (1) Where a company is being wound up voluntarily, the liquidator may, from time to time, summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution, or for any other purposes he may think fit.

(2) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meeting a statement in the prescribed form containing the prescribed particulars with respect to the proceedings in and the position of the liquidation.

Final meeting and dissolution.

**217.** (1) In the case of every voluntary winding up, as soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up showing how the winding up has been conducted and the property of the company has been disposed of; and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(2) The meeting shall be called by advertisement, specifying the time, place and object thereof, and published one month at least before the meeting in the manner specified in section 206.

(3) Within one week after the meeting, the liquidator shall file with the registrar a return of the holding of the meeting, and of its date, and in default of so doing shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

(4) The registrar on the filing of the return shall forthwith register it, and, on the expiration of three months from the registration of the return, the company shall be deemed to be dissolved:

Provided that the Court may, on the application of the liquidator or of any other person who appears to the Court to be interested, make an order deferring the date

at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(5) It shall be the duty of the person on whose application an order of the Court under sub-section (4) is made, within twenty-one days after the making of the order, to file with the registrar a certified copy of the order, and if that person fails so to do, he shall be liable to fine not exceeding fifty rupees for every day during which the default continues.

218. All costs, charges and expenses properly incurred in the voluntary winding up of a company, including the remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims at the date of the winding up.

Cost of  
voluntary  
liquidation.

219. The voluntary winding up of a company shall not bar the right of any creditor or contributory to have it wound up by the Court, if the Court is of opinion, in the case of an application by a creditor, that the rights of the creditor or, in the case of an application by a contributory, that the rights of the contributories will be prejudiced by a voluntary winding up.

Saving for  
rights of  
creditors and  
contributo-  
ries.

220. Where a company is being wound up voluntarily, and an order is made for winding up by the Court, the Court may, if it thinks fit, by the same or any subsequent order, provide for the adoption of all or any of the proceedings in the voluntary winding up.

Power of  
Court to  
adopt pro-  
ceedings of  
voluntary  
winding up.

### *Winding up Subject to Supervision of Court.*

221. When a company has by special or extraordinary resolution resolved to wind up voluntarily, the Court may make an order that the voluntary winding up shall continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the court, and generally on such terms and conditions as the Court thinks just.

Power to  
order winding  
up subject to  
supervision.

222. A petition for the continuance of a voluntary winding up subject to the supervision of the Court shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding up by the Court.

Effect of  
petition for  
winding up  
subject to  
supervision.

223. The Court may, in deciding between a winding up by the Court and a winding up subject to supervision, in the appointment of liquidators, and in all other matters relating to the winding up subject to supervision, have

Court may  
have regard  
to wishes of  
creditors and  
contribu-  
tories.

regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

Power for  
Court to  
appoint or  
remove liqui-  
dators.

**224.** (1) Where an order is made for a winding up subject to supervision, the Court may by the same or any subsequent order appoint any additional liquidator.

(2) A liquidator appointed by the Court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if he had been appointed by the company.

(3) The Court may remove any liquidator so appointed by the Court or any liquidator continued under the supervision order, and fill any vacancy occasioned by the removal, or by death or resignation.

Effect of  
supervision  
order.

**225.** (1) Where an order is made for a winding up subject to supervision, the liquidator may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the company were being wound up altogether voluntarily.

(2) Except as provided in sub-section (1), and save for the purposes of section 196 any order made by the Court for a winding up subject to the supervision of the Court shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding up the company by the Court, and shall confer full authority on the Court to make calls, or to enforce calls made by the liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding up the company altogether by the Court.

(3) In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the official liquidator, the expression "official liquidator" shall be deemed to mean the liquidator conducting the winding up subject to the supervision of the Court.

Appointment  
in certain  
cases of vol-  
untary liqui-  
dators to  
office of  
official liqui-  
dators.

**226.** Where an order has been made for the winding up of a company subject to supervision, and an order is afterwards made for winding up by the Court, the Court may, by the last mentioned order or by any subsequent order, appoint the voluntary liquidators or any of them, either provisionally, or permanently, and either with or without the addition of any other person, to be official liquidator in the winding up by the Court.

*Supplemental Provisions.*

**227.** (1) In the case of voluntary winding up, every transfer of shares, except transfers made to or with the sanction of the liquidator and every alteration in the status of the members of the company made after the commencement of the winding up shall be void.

Avoidance of transfers, etc., after commencement of winding up.

(2) In the case of a winding up by or subject to the supervision of the Court, every disposition of the property (including actionable claims) of the company, and every transfer of shares, or alteration in the status of its members, made after the commencement of the winding up shall, unless the Court otherwise orders, be void.

**228.** In every winding up (subject in the case of insolvent companies to the application in accordance with the provisions of this Act of the law of insolvency) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or for some other reason do not bear a certain value.

Debts of all descriptions to be proved.

**229.** In the winding up of an insolvent company, the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of insolvency with respect to the estates of persons adjudged insolvent: and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding up, and make such claims against the company as they respectively are entitled to by virtue of this section.

Application of insolvency rules in winding up of insolvent companies.

**230.** (1) In winding up there shall be paid in priority to all other debts—

Preferential payments.

(a) all revenue, taxes, cesses and rates, whether payable to the Government or to a local authority, due from the company at the date hereinafter mentioned and having become due and payable within the twelve months next before that date;

(b) all wages or salary of any clerk or servant in respect of service rendered to the company within the two months next before the said



date, not exceeding one thousand rupees for each clerk or servant ; and

- (c) all wages of any labourer or workman, not exceeding five hundred rupees for each whether payable for time or piece-work, in respect of services rendered to the company within the two months next before the said date.

(2) The foregoing debts shall—

- (a) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportion ; and

- (b) so far as the assets of the company available for the payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(3) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(4) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months next before the date of a winding up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof :

Provided that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(5) The date hereinbefore in this section referred to is,—

- a) in the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding up order ; and
- (b) in any other case, the date of commencement of the winding up.

**231.** (1) Any transfer, delivery of goods, payment, execution or other act relating to property which would, if made or done by or against an individual, be deemed in

his insolvency a fraudulent preference, shall, if made or done by or against a company, be deemed, in the event of its being wound up, a fraudulent preference of its creditors, and be invalid accordingly.

(2) For the purposes of this section, the presentation of a petition for winding up in the case of a winding up by or subject to the supervision of the Court, and a resolution for winding up, in the case of a voluntary winding up, shall be deemed to correspond with the act of insolvency in the case of an individual.

(3) Any transfer or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void.

**232.** (1) Where any company is being wound up by or subject to the supervision of the Court, any attachment, distress or execution put in force without leave of the Court against the estate or effects of the company after the commencement of the winding up shall be void.

*Avoidance of certain attachments, executions, etc.*

(2) Nothing in this section applies to proceedings by the Government.

**233.** Where a company is being wound up, a floating charge on the undertaking or property of the company created within three months of the commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid except to the amount of any cash paid to the company at the time of, or subsequently to the creation of and in consideration for, the charge, together with interest on that amount at the rate of five per cent per annum.

*Effect of floating charge.*

**234.** (1) The liquidator may, with the sanction of the Court when the company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the company in the case of a voluntary winding up, do the following things or any of them :—

*General scheme of liquidation may be sanctioned.*

- (i) pay any classes of creditors in full ;
- (ii) make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim present or future, whereby the company may be rendered liable ;
- (iii) compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent subsisting or supposed to

subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) The exercise by the liquidator of the powers of this section shall be subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of these powers.

Power of Court to assess damages against delinquent directors, etc.

**235.** (1) Where, in the course of winding up a company, it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager or liquidator, or any officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the Court thinks just.

(2) This section shall apply notwithstanding that the offence is one for which the offender may be criminally responsible.

(3) The Mysore Limitation Act, 1911, shall apply to any application under this section as if such application were a suit.

Penalty for falsification of books.

**236.** If any director, manager, officer or contributory of any company being wound up destroys, mutilates, alters or falsifies or fraudulently secretes any books, papers or securities, or makes, or is privy to the making of, any false or fraudulent entry in any register book of account or document belonging to the company with intent to defraud or deceive any person, he shall be liable to

imprisonment for a term which may extend to seven years, and shall also be liable to fine.

**237.** (1) If it appears to the Court, in the course of a winding up by or subject to the supervision of the Court that any past or present director, manager, officer or member of the company has been guilty of any offence in relation to the company for which he is criminally responsible, the Court may, on the application of any person interested in the winding up, or of its own motion, direct the official liquidator or the liquidator (as the case may be) to prosecute for the offence, and may order the costs and expenses to be paid out of the assets of the company.

Prosecution  
of delinquent  
directors, etc.

(2) If it appears to the liquidator, in the course of a voluntary winding up that any past or present director, manager, officer or member of the company has been guilty of any offence in relation to the company for which he is criminally responsible, the liquidator, with the previous sanction of the Court, may prosecute the offender, and all expenses properly incurred by him in the prosecution shall be payable out of the assets of the company in priority to all other liabilities.

**238.** If any person, upon any examination upon oath authorised under this Act, or in any affidavit, deposition or solemn affirmation, in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall be liable to imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Penalty for  
false evidence.

**239.** (1) Where by this Act the Court is authorised in relation to winding up to have regard to the wishes of creditors or contributories, as proved to it by any sufficient evidence, the Court may, if it thinks fit for the purpose of ascertaining those wishes, direct meetings of the creditors and contributories to be called, held and conducted in such manner as the Court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the Court.

Meetings to  
ascertain  
wishes of  
creditors or  
contributo-  
ries.

(2) In the case of creditors, regard shall be had to the value of each creditor's debt.

(3) In the case of contributories, regard shall be had to the number of votes conferred on each contributory by the articles.

**240.** Where any company is being wound up all documents of the company and of the liquidator shall, as

Documents of  
company to  
be evidence.

between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

Inspection of documents.

**241.** After an order for a winding up by or subject to the supervision of the Court, the Court may make such order for inspection by creditors and contributories of the company of its documents as the Court thinks just, and any documents in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise.

Disposal of documents of company.

**242.** (1) When a company has been wound up and is about to be dissolved, the documents of the company and of the liquidators may be disposed of as follows (that is to say) :—

- (a) in the case of a winding up by or subject to the supervision of the Court, in such way as the Court directs ;
- (b) in the case of a voluntary winding up, in such way as the company by extraordinary resolution directs.

(2) After three years from the dissolution of the company, no responsibility shall rest on the company, or the liquidators or any person to whom the custody of the documents has been committed, by reason of the same not being forthcoming to any person claiming to be interested therein.

Power of Court to declare dissolution of company void.

**243.** (1) Where a company has been dissolved, the Court may, at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the Court to be interested, make an order, upon such terms as the Court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

(2) It shall be the duty of the person on whose application the order was made, within twenty-one days after the making of the order, to file with the registrar a certified copy of the order, and if that person fails so to do, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Information as to pending liquidations.

**244.** (1) Where a company is being wound up, if the winding up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed until the winding up is concluded, file

with the registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

(2) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement and to receive a copy thereof or extract therefrom; but any person untruthfully so stating himself to be a creditor or contributory shall be deemed to be guilty of an offence under section 182 of the Indian Penal Code, and shall be punishable accordingly on the application of the liquidator.

(3) If a liquidator fails to comply with the requirements of this section, he shall be liable to a fine not exceeding five hundred rupees for each day during which the default continues.

**245.** (1) Any affidavit required to be sworn under the provisions or for the purposes of this Part may be sworn in Mysore before any Court, Judge or person lawfully authorised to take and receive affidavits, or elsewhere before any Court or authority before whom a similar affidavit may be validly sworn. Court or person before whom affidavit may be sworn.

(2) All Courts, Judges, Justices, Commissioners and persons acting judicially in Mysore shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, or authority, attached, appended or subscribed to any such affidavit, or to any other document to be used for the purposes of this Part.

### *Rules.*

**246.** (1) The High Court may, from time to time, make rules consistent with this Act and with the Code of Civil Procedure, 1911, concerning the mode of proceedings to be had for winding up a company in such Court and in the Courts subordinate thereto and for giving effect to the provisions hereinbefore contained as to the reduction of the capital and the sub-division of the shares of a company and shall make rules providing for all matters relating to the winding up of companies which by this Act are to be prescribed. Power of High Court to make rules.

(2) Without prejudice to the generality of the foregoing power, the High Court may by such rules enable or require all or any of the powers and duties conferred and imposed on the Court by this Act, in respect of the

matters following, to be exercised or performed by the official liquidator, and subject to the control of the Court, that is to say, the powers and duties of the Court in respect of—

- (a) holding and conducting meetings to ascertain the wishes of creditors and contributories;
- (b) settling lists of contributories and rectifying the register of members where required and collecting and applying the assets;
- (c) requiring delivery of property or documents to the liquidator;
- (d) making calls;
- (e) fixing a time within which debts and claims must be proved:

Provided that the official liquidator shall not, without the special leave of the Court, rectify the register of members, and shall not make any call without the special leave of the Court.

*Removal of Defunct Companies from Register.*

Registrar  
may strike  
defunct  
company off  
register.

247. (1) Where the registrar has reasonable cause to believe that a company is not carrying on business or in operation, he shall send to the company by post a letter inquiring whether the company is carrying on business or in operation.

(2) If the registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the company by post a registered letter referring to the first letter, and stating that no answer thereto has been received and that, if an answer is not received to the second letter within one month from the date thereof, a notice will be published in the official Gazette with a view to striking the name of the company off the register.

(3) If the registrar either receives an answer from the company to the effect that it is not carrying on business or in operation, or does not within one month after sending the second letter receive any answer, he may publish in the official Gazette, and send to the company by post a notice that, at the expiration of three months from the date of that notice the name of the company mentioned therein, will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) If, in any case where a company is being wound up, the registrar has reasonable cause to believe either that no liquidator is acting or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months after notice by the registrar demanding the returns has been sent by post to the company, or to the liquidator at his last known place of business, the registrar may publish in the official Gazette and send to the company a like notice as is provided in the last preceding sub-section.

(5) At the expiration of the time mentioned in the notice, the registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice thereof in the official Gazette, and, on the publication in the official Gazette of this notice, the company shall be dissolved: provided that the liability (if any) of every director and member of the company shall continue and may be enforced as if the company had not been dissolved.

(6) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the Court, on the application of the company or member or creditor, may, if satisfied that the company was at the time of the striking off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if its name had not been struck off; and the Court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

(7) A letter or notice under this section may be addressed to the company at its registered office, or, if no office has been registered, to the care of some director, manager or other officer of the company or, if there is no director, manager or other officer of the company whose name and address are known to the registrar, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.



## PART VI.

## REGISTRATION OFFICE AND FEES.

Registration  
Offices.

**248.** (1) The Government may appoint such registrars and assistant registrars as it thinks necessary for the registration of companies under this Act, and may make rules with respect to their duties.

(2) The Government may direct a seal or seals to be prepared for the authentication of documents required for or connected with the registration of companies.

(3) Any person may inspect the documents kept by the registrar on payment of such fees as may be appointed by the Government, not exceeding one rupee for each inspection; and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document, to be certified by the registrar on payment for the certificate, certified copy or extract, of such fees as the Government may appoint, not exceeding three rupees for a certificate of incorporation, and not exceeding six annas for every hundred words or fractional part thereof required to be copied.

(4) Whenever any act is by this Act directed to be done to or by the registrar, it shall, until the Government otherwise directs, be done to or by the existing registrar of joint-stock companies or in his absence to or by such person as the Government may for the time being authorise; but, in the event of the Government altering the constitution of the existing registry offices, or any of them, any such act shall be done to or by such officer and at such place with reference to the local situation of the registered offices of the companies to be registered as the Government may appoint.

Fees.

**249.** (1) There shall be paid to the registrar in respect of the several matters mentioned in Table B in the First Schedule the several fees therein specified, or such smaller fees as the Government may direct.

(2) All fees paid to the registrar in pursuance of this Act shall be credited to the Government.

## PART VII.

## APPLICATION OF REGULATION TO COMPANIES FORMED AND REGISTERED UNDER FORMER COMPANIES ACT AND REGULATION.

**250.** In the application of this Act to exist ing companies, it shall apply in the same manner in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by shares; in the case of a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by guarantee; and in the case of a company other than a limited company, as if the company had been formed and registered under this Act as an unlimited company:

Application of Act to Companies formed under former Companies Acts.

Provided that—

- (1) nothing in Table A in the First Schedule shall apply to a company formed and registered under the Indian Companies Act, 1866, or the Mysore Companies Act, 1895;
- (2) reference express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Indian Companies Act, 1866, or the Mysore Companies Act, 1895, as the case may be.

**251.** This Act shall apply to every company registered but not formed under the Indian Companies Act, 1866, or the Mysore Companies Act, 1895, in the same manner as it is hereinafter in this Act declared to apply to companies registered but not formed under this Act:

Application of Act to companies registered but not formed under former Companies Acts.

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the said Acts.

## PART VIII.

COMPANIES AUTHORISED TO REGISTER  
UNDER THIS ACT.

Companies  
capable of  
being regis-  
tered.

**253.** (1) With the exceptions and subject to the provisions mentioned and contained in this section—

any company consisting of seven or more members, which was in existence on the first day of November eighteen hundred and ninety five may at any time register under this Act as an unlimited company or as a company limited by shares, or as a company limited by guarantee; and the registration shall not be invalid by reason that it has taken place with a view to the company being wound up:

(2) Provided as follows:—

- (a) a company that is not a joint-stock company as hereinafter defined shall not register in pursuance of this section as a company limited by shares;
- (b) a company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person or by proxy (in cases where proxies are allowed by the articles) at a general meeting summoned for the purpose;
- (c) where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up, and for the adjustment of the rights of the contributories among themselves such amount as may be required not exceeding a specified amount.

(3) In computing any majority under this section when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the articles.

(4) A Company registered under the Mysore Companies Act 1895, shall not be registered in pursuance of this section.

254. For the purposes of this Part as far as relates to registration of companies as companies limited by shares, a joint stock company means a company having a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons; and such a company, when registered with limited liability under this Act, shall be deemed to be a company limited by shares.

Definition of  
"joint-stock  
company."

255. Before the registration in pursuance of this Part of a joint-stock company, there shall be delivered to the registrar the following documents (that is to say):—

Requirements  
for registra-  
tion by joint-  
stock compa-  
nies.

- (1) a list showing the names, addresses and occupations of all persons who on a day named in the list, not being more than six clear days before the day of registration, were members of the company, with the addition of the shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number;
- (2) a copy of any deed of settlement, contract of co-partnery or other instrument constituting or regulating the company; and
- (3) if the company is intended to be registered as a limited company, a statement specifying the following particulars (that is to say):—
  - (a) the nominal share capital of the company and the number of shares into which it is divided or the amount of stock of which it consists;
  - (b) the number of shares taken and the amount paid on each share;
  - (c) the name of the company with the addition of the word "Limited" as the last word thereof; and
  - (d) in the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee.

Requirements  
for registra-  
tion by other  
than joint-  
stock com-  
pany.

**256.** Before the registration in pursuance of this Part of any company not being a joint-stock company, there shall be delivered to the registrar—

- (1) a list showing the names, addresses and occupations of the directors of the company; and
- (2) a copy of any deed of settlement, contract of co-partnery or other instrument constituting or regulating the company; and
- (3) in the case of a company intended be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.

Authentica-  
tion of state-  
ment of  
existing  
companies.

**257.** The lists of members and directors and any other particulars relating to the company required to be delivered to the registrar shall be duly verified by a declaration of any two or more directors or other principal officers of the company.

Registrar  
may require  
evidence as  
to nature  
of company.

**258.** The registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether any company proposing to be registered is or is not a joint-stock company as hereinbefore defined.

On registra-  
tion of  
banking  
company  
with limited  
liability  
notice to be  
given to  
customers.

**259.** (1) Where a banking company, which was in existence on the first day of November eighteen hundred and ninety-five, proposes to register as a limited company, it shall, at least thirty days before so registering, give notice of its intention so to register to every person who has a banking account with the company, either by delivery of the notice to him, or by posting it to him at, or delivering it at, his last known address.

(2) If the company omits to give the notice required by this section, then as between the company and the person for the time being interested in the account in respect of which the notice ought to have been given, and so far as respects the account down to the time at which the notice is given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

Exemption  
of certain  
companies  
from pay-  
ment of fees.

**260.** No fees shall be charged in respect of the registration in pursuance of this Part of a company, if it is not registered as a limited company.

Addition of  
“Limited”  
to name.

**261.** When a company registers in pursuance of this Part with limited liability, the word “Limited” shall form and be registered as part of its name.

**262.** On compliance with the requirements of this Part with respect to registration, and on payment of such fees, if any, as are payable under Table B in the First Schedule, the registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Act, and in the case of a limited company that it is limited, and thereupon the company shall be incorporated, and shall have perpetual succession and a common seal.

Certificate of registration of existing companies.

**263.** All property, moveable and immoveable, including all interests and rights in, to and out of property, moveable and immoveable, and including obligations and actionable claims as may belong to or be vested in a company at the date of its registration in pursuance of this Part, shall, on registration, pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein.

Vesting of property on registration.

**264.** The registration of a company in pursuance of this Part shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred or any contract entered into, by, to, with, or on behalf of, the company before registration.

Saving of existing liabilities.

**265.** All suits and other legal proceedings which at the time of the registration of a company in pursuance of this Part are pending by or against the company, or the public officer or any member thereof, may be continued in the same manner as if the registration had not taken place; nevertheless execution shall not issue against the effects of any individual member of the company on any decree or order obtained in any such suit or proceeding; but in the event of the property and effects of the company being insufficient to satisfy the decree or order, an order may be obtained for winding up the company.

Continuation of existing suits.

**266.** When a company is registered in pursuance of this Part—

Effect of registration under Act.

- (i) all provisions contained in any deed of settlement, contract of co-partnery, or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company in the same manner and with the same incidents as if so much thereof as

would, if the company had been formed under this Act, have been required to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained in registered articles ;

- (ii) all the provisions of this Act shall apply to the company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject as follows (that is to say) :—
- (a) the regulations in Table A in the First Schedule shall not apply unless adopted by special resolution ;
- (b) the provisions of this Act relating to the numbering of shares shall not apply to any joint-stock company whose shares are not numbered ;
- (c) in the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability ; or to pay or contribute to the payment of the costs and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid ; and every contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid ; and in the event of the death or insolvency of any contributory, the provisions of this Act with respect to the legal representatives and heirs of deceased contributories, and with reference to the assignees of insolvent contributories, shall apply ;

(iii) the provisions of this Act with respect to—

(a) the registration of an unlimited company as limited ;

(b) the powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called up except in the event of winding up ;

(c) the power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in the event of winding up ;  
shall apply notwithstanding any provisions contained in any deed of settlement, contract of co-partnery or other instrument constituting or regulating the company ;

(iv) nothing in this section shall authorise the company to alter any such provisions contained in any deed of settlement, contract of co-partnery or other instrument constituting or regulating the company, as would, if the company had originally been formed under this Act, have been required to be contained in the memorandum and are not authorised to be altered by this Act ;

(v) nothing in this Act shall derogate from any lawful power of altering its constitution or regulations which may, by virtue of any enactment at any time in force in Mysore, deed of settlement, contract of co-partnery, or other instrument constituting or regulating the company, be vested in the company.

**267.** (1) Subject to the provisions of this section, a company registered in pursuance of this Part may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.

Power to substitute memorandum and articles for deed of settlement.

(2) The provisions of this Act with respect to confirmation by the Court and registration of an alteration of the objects of a company shall, so far as appli-



cable, apply to an alteration under this section with the following modifications :—

(a) there shall be substituted for the printed copy of the altered memorandum required to be filed with the registrar a printed copy of the substituted memorandum and articles ; and,

(b) on the registration of the alteration being certified by the registrar, the substituted memorandum and articles shall apply to the company in the same manner as if it were a company registered under this Act with that memorandum and those articles, and the company's deed of settlement shall cease to apply to the company.

(3) An alteration under this section may be made either with or without any alteration of the objects of the company under this Act.

(4) In this section the expression “ deed of settlement ” includes any contract of co-partnery or other instrument constituting or regulating the company.

Power of  
Court to stay  
or restrain  
proceedings.

**268.** The provisions of this Act with respect to staying and restraining suits and legal proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order shall, in the case of a company registered in pursuance of this Part, where the application to stay or restrain is by a creditor, extend to suits and legal proceedings against any contributory of the company.

Suits stayed  
on winding  
up order.

**269.** Where an order has been made for winding up a company registered in pursuance of this Part no suit or other legal proceeding shall be commenced or proceeded with against the company or any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

## PART IX.

### WINDING UP OF UNREGISTERED COMPANIES.

Meaning of  
“ unregist-  
ed company.”

**270.** For the purposes of this Part, the expression “ unregistered company ” shall not include a railway company incorporated by any enactment at any time in force in Mysore, nor a company registered under the Indian Companies Act, 1866, or under the Mysore Companies

Act, 1895, or under this Act but save as aforesaid, shall include any partnership, association or company consisting of more than seven members.

271. (1) Subject to the provisions of this Part, any unregistered company may be wound up under this Act and all the provisions of this Act with respect to winding up shall apply to an unregistered company, with the following exceptions and additions :—

Winding up  
of unregis-  
tered companies.

- (i) no unregistered company shall be wound up under this Act voluntarily or subject to supervision;
- (ii) the circumstances in which an unregistered company may be wound up are as follows (that is to say):—
  - (a) if the company is dissolved, or has ceased to carry on business or is carrying on business only for the purpose of winding up its affairs;
  - (b) if the company is unable to pay its debts;
  - (c) if the Court is of opinion that it is just and equitable that the company should be wound up;
- (iii) an unregistered company shall, for the purposes of this Act be deemed to be unable to pay its debts—
  - (a) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding five hundred rupees then due, has served on the company by leaving at its principal place of business, or by delivering to the secretary, or some director, manager or principal officer of the company, or by otherwise serving in such manner as the Court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks after the service of the demand neglected to pay the sum, or to secure or compound for it to the satisfaction of the creditor;
  - (b) if any suit or other legal proceeding has been instituted against any member for any debt or demand due or claimed to be due, from the company or from him in his character of member, and notice in writing of the institution of the suit or other legal proceeding

having been served on the company by leaving the same at its principal place of business or by delivering it to the secretary, or some director, manager or principal officer of the company or by otherwise serving the same in such manner as the Court may approve or direct, the company has not within ten days after service of the notice paid, secured or compounded for the debt or demand, or procured the suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same ;

(c) if execution or other process issued on a decree or order obtained in any Court in favour of a creditor against the company, or any member thereof as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied ; and

(d) if it is otherwise proved to the satisfaction of the Court that the company is unable to pay its debts.

(2) Nothing in this Part shall affect the operation of any enactment which provides for any partnership, association or company being wound up, or being wound up as a company or as an unregistered company, under any enactment repealed by this Act, except that references in any such first-mentioned enactment to any such repealed enactment shall be read as references to the corresponding provision (if any) of this Act.

Contribu-  
tories in  
winding up  
of unregis-  
tered compa-  
nies.

**272.** (1) In the event of an unregistered company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves, or to pay or contribute to the payment of the costs and expenses of winding up the company, and every contributory shall be liable to contribute to the assets of the company, all sums due from him in respect of any such liability as aforesaid.

(2) In the event of any contributory dying or being adjudged insolvent, the provisions of this Act with respect to the legal representatives and heirs of deceased

contributories and to the assignees of insolvent contributories shall apply.

**273.** The provisions of this Act with respect to staying and restraining suits and legal proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to suits and legal proceedings against any contributory of the company.

Power to stay or restrain proceedings.

**274.** Where an order has been made for winding up an unregistered company, no suit or other legal proceeding shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

Suits stayed on winding up order.

**275.** If an unregistered company has no power to sue and be sued in a common name, or if for any reason it appears expedient, the Court may by the winding up order, or by any subsequent order, direct that all or any part of the property moveable or immoveable, including all interests and rights in, to and out of property, moveable and immoveable and, including obligations and actionable claims as may belong to the company or to trustees on its behalf, is to vest in the official liquidator by his official name, and thereupon the property or the part thereof specified in the order shall vest accordingly; and the official liquidator may, after giving such indemnity (if any) as the Court may direct, bring or defend in his official name any suit or other legal proceeding relating to that property, or necessary to be brought or defended for the purposes of effectually winding up the company and recovering its property.

Directions as to property in certain cases.

**276.** The provisions of this Part with respect to unregistered companies shall be in addition to, and not in restriction of, any provisions hereinbefore in this Act contained with respect to winding up companies by the Court, and the Court or official liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and registered under this Act, but an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part.

Provisions of this Part cumulative.

## PART X.

## COMPANIES ESTABLISHED OUTSIDE MYSORE.

Requirements  
as to compa-  
nies estab-  
lished outside  
Mysore.

**277.** (1) Every company incorporated outside Mysore, which at the commencement of this Act has a place of business in Mysore, and every such company which after the commencement of this Act establishes such a place of business within Mysore, shall, within six months from the commencement of this Act or within one month from the establishment of such place of business as the case may be, file with the registrar,—

- (a) a certified copy of the charter, statutes or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof;
- (b) the full address of the registered or principal office of the company;
- (c) a list of the directors and managers (if any) of the company;
- (d) the names and addresses of some one or more persons resident in Mysore authorised to accept on behalf of the company service of process and any notices required to be served on the company;

and, in the event of any alteration being made in any such instrument or in such address or in the directors or managers or in the names or addresses of any such persons as aforesaid, the company shall within the prescribed time, file with the registrar a notice of the alteration.

(2) Any process or notice required to be served on the company shall be sufficiently served, if addressed to any person whose name has been so filed as aforesaid and left at or sent by post to the address which has been so filed.

(3) Every company to which this section applies shall in every year file with the registrar—

- (i) in a case where by the law, for the time being in force, of the country in which the company is incorporated such company is required to file with the public authority an annual balance sheet,—a copy of that balance sheet;
- or

- (ii) in a case where no such provision is made by the law, for the time being in force, of the country in which the company is incorporated,—such a statement in the form of a balance sheet as such company would, if it were a company formed and registered under this Act be required to file in accordance with the provisions of this Act :

Provided that the Government may, by notification in the Official Gazette subject to restrictions and conditions, if any, as it may therein prescribe, exempt any such company or any class of such companies from this requirement.

(4) Every company to which this section applies and which uses the word “Limited” as part of its name, shall,—

- (a) in every prospectus inviting subscriptions for its shares or debentures in Mysore, state the country in which the company is incorporated ; and
- (b) conspicuously exhibit on every place where it carries on business in Mysore the name of the company and the country in which the company is incorporated in letters easily legible in English or Kannada characters ; and
- (c) have the name of the company and of the country in which the company is incorporated mentioned in legible English or Kannada characters in all bill-heads and letter paper and in all notices, advertisements and other official publications of the company.

(5) If any company to which this section applies fails to comply with any of the requirements of this section, the company, and every officer or agent of the company, shall be liable to a fine not exceeding five hundred rupees or, in the case of a continuing offence, fifty rupees for every day during which the default continues.

(6) For the purposes of this section—

- (a) the expression “certified” means certified in the prescribed manner to be a true copy or a correct translation ;

- (b) the expression “place of business” includes a share transfer or share registration office ;
  - (c) the expression “director” includes any person occupying the position of director, by whatever name called ; and
  - (d) the expression “prospectus” means any prospectus, notice, circular, advertisement or other invitation, offering to the public for subscription or purchase any shares or debentures of the company.
- (7) There should be paid to the registrar for registering any document required by this section to be filed with him a fee of five rupees or such smaller fee as may be prescribed.

## PART XI.

### SUPPLEMENTAL.

#### *Legal Proceedings, Offences, etc.*

Cognizance of offences.

**278.** (1) No Court inferior to that of a Magistrate of the first class shall try any offence against this Act.

(2) Notwithstanding anything in the Code of Criminal Procedure, 1904, every offence against this Act shall, for the purposes of the said Code, be deemed to be non-cognizable.

Applications of fines.

**279.** The Court imposing any fine under this Act may direct that the whole or any part thereof be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding of the person on whose information the fine is recovered.

Power to require limited company to give security for costs.

**280.** Where a limited company is plaintiff or petitioner in any suit or other legal proceeding, any Court having jurisdiction in the matter may, if it appears that there is on reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

Power of Court to grant relief in certain cases.

**281.** If in any proceeding before any Court against a director of a company for negligence or breach of trust, it appears to such Court that the director is or may be liable in respect of the negligence or breach or trust, but

has acted honestly and reasonably, and ought fairly to be excused for the negligence or breach of trust, that Court may relieve him, either wholly or partly, from his liability on such terms as the Court may think proper.

**282.** Whoever in any return, report, certificate, balance sheet or other document, required by or for the purposes of any of the provisions of this Act wilfully makes a statement false in any material particular, knowing it to be false, shall be punishable with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Penalty for false statement.

**283.** If any person or persons trade or carry on business under any name or title of which "Limited" is the last word, that person or those persons shall, unless duly incorporated with limited liability, be liable to a fine not exceeding fifty rupees for every day upon which that name or title has been used.

Penalty for improper use of word "Limited."

[a] **283-A.** If any company required to alter or omit the words objected to under proviso to sub-section 3 of section 11, does not comply with such requisition within the period of three months mentioned therein, it shall be liable to be wound up on a petition presented by the Government Advocate or any other officer duly authorised by the Government in this behalf, notwithstanding anything contained in section 166.

**284.** The provisions of this Act with respect to winding up shall not apply to any company of which the winding up has commenced before the commencement of this Act, but every such company shall be wound up in the same manner and with the same incidents as if this Act had not been passed, and, for the purpose of the winding up, the Mysore Companies Act, 1895, shall be deemed to remain in full force.

Saving of pending proceedings for winding up.

**285.** Every instrument of transfer or other document made before the commencement of this Act in pursuance of any enactment hereby repealed shall be of the same force as if this Act had not been passed, and for the purposes of that instrument or document the repealed enactment shall be deemed to remain in full force.

Saving of document.

**286.** (1) The offices existing at the commencement of this Act for registration of joint-stock companies

Former registration offices, registers and registrars continued.

[a] Added by section 3 of Act XVI of 1923,



shall be continued as if they had been established under this Act.

(2) Registers of companies kept in any such existing offices shall respectively be deemed part of the registers of companies to be kept under this Act.

(3) The existing registrars, assistant registrars and officers in those offices shall, during the pleasure of the Government, hold the offices hitherto held by them, subject to any rules of the Government with regard to the execution of their duties.

Construction  
of " registrar  
of joint-stock  
companies " in  
Act III of  
1904.

**288.** In sections 2 and 19 of Act III of 1904 (for the registration of Literary, Scientific and Charitable Societies), the words " registrar of joint-stock companies " shall be construed to mean the registrar under this Act.

Repeal  
and sav-  
ings.

**290.** (1) The enactment mentioned in the Fourth Schedule is hereby repealed to the extent specified in the fourth column thereof:

Provided that the repeal shall not affect—

(a) the incorporation of any company registered under any enactment hereby repealed; nor

(c) Table A in the First Schedule annexed to the Mysore Companies Act, 1895, or any part thereof, so far as the same applies to any company existing at the commencement of this Act.

(2) All fees directed, resolutions passed and other things duly done under any enactment hereby repealed, shall be deemed to have been directed, passed or done under this Act.

(3) The mention of particular matters in this section or in any other section of this Act shall not prejudice the general application of section 6 of the General Clauses Act, 1899, with regard to the effect of repeals.

## SCHEDULES.

## THE FIRST SCHEDULE.

(See sections 2, 17, 18, 79 and 266.)

## TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY  
LIMITED BY SHARES.*Preliminary.*

1. In these regulations, unless the context otherwise requires, expressions defined in the Mysore Companies Act, 1917, or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined; and words importing the singular shall include the plural, and *vice versa*, and words importing the masculine gender shall include females, and words importing persons shall include bodies corporate.

*Business.*

2. The directors shall have regard to the restrictions on the commencement of business imposed by section 103 of the Mysore Companies Act, 1917, if, and so far as, those restrictions are binding upon the company.

*Shares.*

3. Subject to the provisions, if any, in that behalf, of the memorandum of association of the company, and without prejudice to any special rights previously conferred on the holders of existing shares in the company, any shares in the company may be issued with such preferred, deferred or other special rights, or such restrictions, whether in regard to dividend, voting, return of share capital, or otherwise, as the company may from time to time by special resolution determine.

4. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares

of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations, relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class.

5. No share shall be offered to the public for subscription except upon the terms that the amount payable on application shall be at least 5 per cent of the nominal amount of the share; and the directors shall, as regards any allotment of shares, duly comply with such of the provisions of sections 101 and 104 of the Mysore Companies Act, 1917 as may be applicable thereto.

6. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the common seal of the company specifying the share or shares held by him and the amount paid up thereon: Provided that, in respect of a share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint-holders shall be sufficient delivery to all.

7. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding eight annas, and on such terms, if any, as to evidence and indemnity as the directors think fit.

8. No part of the funds of the company shall be employed in the purchase of, or in loans upon the security of, the company's shares.

### *Lien.*

9. The company shall have a lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall have also a lien on all shares (other than fully paid shares) standing registered in the name of a single person, for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. The company's lien, if any, on a share shall extend to all dividends payable thereon.

10. The company may sell, in such manner as the director thinks fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating, and demanding payment of such part of amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled by reason of his death or insolvency to the share.

11. The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase-money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

### *Calls on Shares.*

12. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares, provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payments) pay to the company at the time or times so specified the amount called on his shares.

13. The joint-holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

14. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of five per cent per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

15. The provisions of these regulations as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of the issue of a share, becomes payable at a fixed time, whether on account of

the amount of the share, or by way of premium, as if the same had become payable by virtue of a call, duly made and notified.

16. The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

17. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, six per cent) as may be agreed upon between the member paying the sum in advance and the directors.

#### *Transfer and Transmission of Shares.*

18. The instrument of transfer of any share in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain holder of the share until the name of the transferee is entered in the register of members in respect thereof.

19. Shares in the company shall be transferred in the following form, or in any usual or common form which the directors shall approve:

I, A B of \_\_\_\_\_, in consideration of the sum of rupees \_\_\_\_\_ paid to me by C D of \_\_\_\_\_ (hereinafter called "the said transferee"), do hereby transfer to the said transferee the share [or shares] numbered in the undertaking called the \_\_\_\_\_ Company, Limited, to hold unto the said transferee, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution thereof, and I, the said transferee, do hereby agree to take the said share [or shares] subject to the conditions aforesaid. As witness our hands the day of \_\_\_\_\_

Witness to the signature of, etc.

27. The directors may decline to register any transfer of shares, not being fully-paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors

may decline to recognize any instrument of transfer unless—

- (a) a fee not exceeding two rupees is paid to the company in respect thereof; and
- (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

21. The executors or administrators of a deceased sole holder of a share shall be the only persons recognized by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors, or survivor, or the executors or administrators of the deceased survivor, shall be the only persons recognized by the company as having any title to the share.

22. Any person becoming entitled to a share in consequence of the death or insolvency of a member shall, upon such evidence being produced as may from time to time be required by the directors, have the right either to be registered as a member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or insolvent person could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or the insolvent person before the death or insolvency.

23. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

### *Forfeiture of Shares.*

24. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call

or instalment as is unpaid together with any interest which may have accrued.

25. The notice shall name a further day (not earlier than the expiration of fourteen days, from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made will be liable to be forfeited.

26. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

27. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

28. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys, which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company receive payment in full of the nominal amount of the shares.

29. A duly verified declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share, and that declaration, and the receipt of the company for the consideration, if any, given for the share on the sale or disposition thereof, shall constitute a good title to the share, and the person to whom the share is sold or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase-money (if any), nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

30. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable

at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

*Conversion of Shares into Stock.*

31. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock, and may with the like sanction re-convert any stock into paid-up shares of any denomination.

32. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may, from time to time, fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

33. The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the company, and other matters, as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

34. Such of the regulations of the company (other than those relating to share-warrants), as are applicable to paid-up shares shall apply to stock, and the words "share" and "share-holder" therein shall include "stock" and "stock-holder."

*Share-warrants.*

35. The company may issue share-warrants, and accordingly the directors may in their discretion, with respect to any share which is fully paid up, on application in writing signed by the person registered as holder of the share, and authenticated by such evidence (if any) as the directors may, from time to time, require as to the identity of the person signing the request, and on receiving the certificate (if any) of the share, and the amount of the



stamp-duty on the warrant and such fee as the directors may, from time to time, require, issue under the company's seal a warrant, duly stamped, stating that the bearer of the warrant is entitled to the shares therein specified, and may provide by coupons or otherwise for the payment of dividends, or other moneys, on the shares included in the warrant.

36. A share-warrant shall entitle the bearer to the shares included in it, and the share shall be transferred by the delivery of the share-warrant, and the provisions of the regulations of the company with respect to transfer and transmission of shares shall not apply thereto.

37. The bearer of a share-warrant shall, on surrender of the warrant to the company for cancellation, and on payment of such sum as the directors may, from time to times, prescribe, be entitled to have his name entered as a member in the register of members in respect of shares included in the warrant.

38. The bearer of a share-warrant may at any time deposit the warrant at the office of the company, and so long as the warrant remains so deposited, the depositor shall have the same right of signing a requisition for calling a meeting of the company, and of attending and voting and exercising the other privileges of a member at any meeting held after the expiration of two clear days from the time of deposit, as if his name were inserted in the register of members as the holder of the shares included in the deposited warrant. Not more than one person shall be recognised as depositor of the share-warrant. The company shall, on two days' written notice, return the deposited share-warrant to the depositor.

39. Subject as herein otherwise expressly provided, no person shall, as bearer of a share-warrant, sign a requisition for calling a meeting of the company, or attend, or vote or exercise any other privilege of a member at a meeting of the company, or be entitled to receive any notices from the company; but the bearer of a share-warrant shall be entitled in all other respects to the same privileges and advantages as if he were named in the register of members as the holder of the shares included in the warrant, and he shall be a member of the company.

40. The directors may, from time to time, make rules as to the terms on which (if they shall think fit) a new sharewarrant or coupon may be issued by way of renewal in case of defacement, loss or destruction.

*Alteration of Capital.*

41. The directors may, with the sanction of an extraordinary resolution of the company, increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

42. Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of share capital, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

43. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original share capital.

44. The company may, by special resolution,—

- (a) consolidate and divide its share capital into shares of larger amount than its existing shares ;
- (b) by sub-division of its existing shares or any of them, divide the whole or any part of its share capital into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions of paragraph (d) of sub-section (1) of section 48 of the Mysore Companies Act, 1917 ;
- (c) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person ;
- (d) reduce its share capital in any manner and with, and subject to, any incident authorised, and consent required, by law.

*General Meetings.*

45. The statutory general meeting of the company shall be held within the period required by section 77 of the Mysore Companies Act, 1917.

46. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be called by any two members in the same manner as nearly as possible as that in which meetings are to be called by the directors.

47. The abovementioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

48. The directors may, whenever they think fit, call an extraordinary general meeting, and extraordinary general meetings shall also be called on such requisition, or in default, may be called by such requisitionists, as provided by section 78 of the Mysore Companies Act, 1917. If at any time there are not within Mysore sufficient directors capable of acting to form a quorum, any director or any two members of the company may call an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be called by the directors.

*Proceedings at General Meeting.*

49. Fourteen days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and, in case of special business, the general nature of that business, shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but the non-receipt of the notice by any member shall not invalidate the proceedings at any general meeting.

50. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting with the exception of sanctioning a dividend, the consideration of the accounts, balance of sheets and the ordinary report to the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

51. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members personally present shall be a quorum.

52. If within half an hour from the time appointed for the meeting, a quorum is not present, the meeting, if called upon the requisition of members, shall be dissolved; in any other case, it shall stand adjourned to the same day in the next week at the same time and place, and, if, at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

53. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

54. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

55. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

56. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three members,

and, unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

57. If a poll is duly demanded, it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

58. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.

59. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

#### *Votes of Members.*

60. On a show of hands, every member present in person shall have one vote. On a poll, every member shall have one vote for each share of which he is the holder.

61. In the case of joint-holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint-holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

62. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.

63. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

64. On a poll, votes may be given either personally or by proxy: Provided that no company shall vote by proxy as long as a resolution of its directors in accordance

with the provisions of section 80 of the Mysore Companies Act, 1917, is in force.

65. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a corporation, either under the common seal, or under the hand of an officer or attorney so authorised. No person shall act as a proxy unless either he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy, or he has been appointed to act at that meeting as proxy for a corporation.

66. The instrument appointing a proxy and the power-of-attorney or other authority (if any), under which it is signed, or a notarially certified copy of that power or authority, shall be deposited at the registered office of the company not less than seventy-two hours before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default, the instrument of proxy shall not be treated as valid.

67. An instrument appointing a proxy may be in the following form, or in any other form which the directors shall approve:—

Company, Limited.

“ I                      of                      in the district of                      being a  
member of the                      Company, Limited, hereby appoint  
   of                      as my proxy to vote for me and on  
my behalf at the [ordinary or extraordinary, as the case may  
be] general meeting of the company to be held on the  
   day of                      and at any adjourn-  
ment thereof.”                      „

Signed this                      day of

*Directors.*

68. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the memorandum of association.

69. The remuneration of the directors shall from time to time be determined by the company in general meeting.

70. The qualification of a director shall be the holding of at least one share in the company, and it shall be his duty to comply with the provisions of section 85 of the Mysore Companies Act, 1917.

*Powers and Duties of Directors.*

71. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not by the Mysore Companies Act, 1917, or any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulation of these articles, to the provisions of the said Act, and to such regulations being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

72. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term, and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors, but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a director, or if the company in general meeting resolve that his tenure of the office of managing director or manager be determined.

73. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed the issued share capital of the company without the sanction of the company in general meeting.

74. The directors shall duly comply with the provisions of the Mysore Companies Act, 1917, or any statutory modification thereof for the time being in force, and in particular with the provision in regard to the registration of the particulars of mortgages and charges affecting the property of the company or created by it, and to keeping a register of the directors, and to sending to the registrar an annual list of members, and a summary of particulars relating thereto and notice of any consolidation or increase of share capital, or conversion of shares

into stock, and copies of special resolutions and a copy of the register of directors and notifications of any changes therein.

75. The directors shall cause minutes to be made in books provided for the purpose—

- (a) of all appointments of officers made by the directors ;
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors ;
- (c) of all resolutions and proceedings at all meetings of the company, and, of the directors, and of committees of directors ;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

#### *The Seal.*

76. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of at least two directors and of the secretary or such other person as the directors may appoint for the purpose, and those two directors and secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

#### *Disqualifications of Directors.*

76. The office of director shall be vacated if the director—

- (a) ceases to be a director by virtue of section 85 of the Mysore Companies Act, 1917 ; or
- (b) holds, or any partner of his, or the firm of which he is a member, holds, any other office of profit under the company except that of managing director or manager ; or
- (c) is adjudged insolvent ; or
- (d) is found lunatic or becomes of unsound mind ; or
- (e) is concerned or participates in the profits of any contract with the company or
- (f) is punished with imprisonment for a term exceeding six months ;



Provided, however, that no director shall vacate his office by reason of his being a member of any company which has entered into contracts with, or done any work for, the company of which he is director; but a director shall not vote in respect of any such contract or work, and if he does so vote, his vote shall not be counted.

### *Rotation of Directors.*

78. At the first ordinary meeting of the company, the whole of the directors shall retire from office, and at the ordinary meeting in every subsequent year, one-third of the directors for the time being or, if their number is not three or a multiple of three, then the number nearest to one-third shall retire from office.

79. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

80. A retiring director shall be eligible for re-election.

81. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto.

82. If at any meeting at which an election of directors ought to take place, the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week at the same time and place, and, if at the adjourned meeting the places of the vacating directors are not filled up, the vacating directors or such of them as have not had their places filled up shall be deemed to have been re-elected at the adjourned meeting.

83. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

84. Any casual vacancy occurring on the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

85. The directors shall have power at any time, and from time to time, to appoint a person as an additional director, who shall retire from office at the next following

ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

86. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead; the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

### *Proceedings of Directors.*

87. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time, summon a meeting of directors.

88. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall (when the number of directors exceeds three) be three.

89. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number or of summoning a general meeting of the company, but for no other purpose.

90. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

91. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so founded shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

92. A committee may elect a chairman of their meetings ; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

93. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and, in case of an equality of votes the chairman shall have a second or casting vote.

94. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors, or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

#### *Dividends and Reserve.*

95. The company in general meeting may declare dividends, but no dividends shall exceed the amount recommended by the directors.

96. The directors may from time to time pay to the members such *interim* dividends as appear to the directors to be justified by the profits of the company.

97. No dividends shall be paid otherwise than out of profits.

98. Subject to the rights of persons (if any) entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

99. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalizing dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application

may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

100. If several persons are registered as joint-holders of any share, any one of them may give effectual receipts for any dividend payable on the share.

101. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

102. No dividend shall bear interest against the company.

### *Accounts.*

103. The directors shall cause true accounts to be kept—

(a) of the sums of money received and expended by the company, and the matter in respect of which such receipt and expenditure takes place; and

(b) of the assets and liabilities of the company.

104. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

105. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the directors or by the company in general meeting.

106. Once at least in every year the directors shall lay before the company in general meeting a profit and loss account for the period since the preceding account or (in the case of the first account) since the incorporation of the company, made up to a date not more than six months before such meeting.

107. The profit and loss account shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries

and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting, and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

108. A balance-sheet shall be made out in every year and laid before the company in general meeting made up to a date not more than six months before such meeting. The balance-sheet shall be accompanied by a report of the directors as to the state of the company's affairs, and the amount which they recommend to be paid by way of dividend, and the amount (if any) which they propose to carry to a reserve fund.

109. A copy of the balance-sheet and report shall, seven days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

110. The directors shall in all respects comply with the provisions of sections 130 to 135 of the Mysore Companies Act, 1917, or any statutory modification thereof for the time being in force.

#### *Audit.*

111. Auditors shall be appointed and their duties regulated in accordance with sections 144 and 145 of the Mysore Companies Act, 1917, or any statutory modification thereof for the time being in force.

#### *Notices.*

112. (1) A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or (if he has no registered address in Mysore) to the address, if any, within Mysore supplied by him to the company for the giving of notices to him.

(2) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected

at the time at which the letter would be delivered in the ordinary course of post.

113. If a member has no registered address in Mysore, and has not supplied to the company an address within Mysore for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company shall be deemed to be duly given to him on the day on which the advertisement appears.

114. A notice may be given by the company to the joint-holders of a share by giving the notice to the joint-holder named first in the register in respect of the share.

115. A notice may be given by the company to the persons entitled to a share in consequence of the death or insolvency of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or assignee of the insolvent or by any like description, at the address (if any) in Mysore supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.

116. Notice of every general meeting shall be given in some manner hereinbefore authorised to (a) every member of the company (including bearers of share-warrants) except those members who (having no registered address within Mysore) have not supplied to the company an address within Mysore for the giving of notices to them, and also to (b) every person entitled to a share in consequence of the death or insolvency of a member, who, but for his death or insolvency, would be entitled to receive notice of the meeting. No other person shall be entitled to receive notices of general meetings.

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## TABLE B.

(See sections 249 and 262.)

## TABLE OF FEES TO BE PAID TO THE REGISTRAR.

*I—By a Company having a share capital.*

	Rs.	a.	p.
1. For registration of a company whose nominal share capital does not exceed Rs. 20,000, a fee of ..	40	0	0
2. For registration of a company whose nominal share capital exceeds Rs. 20, 000, the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital (that is to say)—			
For every 10,000 rupees of nominal share capital, or part of 10,000 rupees, after the first 20,000 rupees up to 50,000 rupees ..	20	0	0
For every 10,000 rupees of nominal share capital or part of 10,000 rupees, after the first 50,000 rupees up to 1,00,000 rupees ..	5	0	0
For every 10,000 rupees of nominal share capital or part of 10,000 rupees, after the first 1,00,000 rupees ..	1	0	0
3. For registration of any increase of share capital made after the first registration of the company, the same fees per 10,000 rupees or part of 10,000 rupees as would have been payable if such increased share capital had formed part of the original share capital at the time of registration ..			
Provided that no company shall be liable to pay in respect of nominal share capital on registration or afterwards, any greater amount of fees than 1,000 rupees taking into account, in the case of fees payable on an increase of share capital after registration, the fees paid on registration.			
4. For registration of any existing company, except such companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fees as is charged for registering a new company.			
5. For filing returns of allotments prescribed by section 104 of the Act in cases in which the aggregate paid up value of the shares allotted does not exceed Rs. 100, 1 per cent on the paid up value of the shares allotted; in cases in which the paid up value exceeds Rs. 100 ..	3	0	0
For filing any other document required or authorised by this Act or rules made thereunder other than the memorandum or the abstract required to be filed with the registrar by a receiver or the			

	Rs.	a.	p.
statement required to be filed with the registrar by the liquidator in a winding-up .. ..	3	0	0
6. For making a record of any fact by this Act authorised or required to be recorded by the Registrar, a fee of .. .. .	5	0	0

*II—By a Company not having a share capital.*

1. For registration of a company whose number of members, as stated in the articles of the association, does not exceed 20 .. .. .	40	0	0
2. For registration of a company whose number of members, as stated in the articles of association, exceeds 20, but does not exceed 100 .. ..	100	0	0
3. For registration of a company whose number of members, as stated in the articles of association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional fee of Rs. 5 for every 50 members, or less number than 50 members, after the first 100.			
4. For registration of a company in which the number of members is stated in the articles of association to be unlimited, a fee of .. .. .	400	0	0
5. For registration of any increase on the number of members made after the registration of the company, the same fees as would have been payable if such increase had been stated in the articles of association at the time of registration .. .. .	5	0	0
Provided that no one company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the company.			
6. For registration of any existing company except such companies as are by this Act exempted from payment of fees in respect of registration under this Act the same fee as is charged for registering a new company.			
7. For filing returns of allotments prescribed by section 104 of the Act in cases in which the aggregate paid up value of the shares allotted does not exceed Rs. 100, 1 per cent on the paid up value of the shares allotted; in cases in which the paid up value exceeds Rs. 100 .. .. .	3	0	0
For filing any other document required or authorised by this Act or rules made thereunder, other than the memorandum or the abstract required to be filed with the registrar by a receiver or the statement required to be filed with the registrar by the liquidator in a winding up .. .. .	3	0	0
8. For making a record of any fact by this Act authorised or required to be recorded by the registrar, a fee of .. .. .	5	0	0



## THE SECOND SCHEDULE.

(See section 98.)

## STATEMENT IN LIEU OF PROSPECTUS.

filed by

LIMITED.

pursuant to section 98 of the Mysore Companies Act 1917. Presented for filing by

THE MYSORE COMPANIES ACT, 1917.

LIMITED.

## STATEMENT IN LIEU OF PROSPECTUS.

The nominal share capital of the company	Rs.
Divided into .. .. .	Shares of Rs. each. " " " " " "
Names, descriptions and addresses of directors or proposed directors and of the managers or proposed managers.	
Minimum subscription (if any) fixed by the memorandum or articles of association on which the company may proceed to allotment.	
Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash.	1. shares of Rs. fully paid.
The consideration for the intended issue of those shares and debentures.	2. shares upon which Rs. per share credited as paid.
	3. Debentures Rs.
	4. Consideration.

Names and addresses of (a) vendors of property purchased or acquired, (b) or proposed to be purchased or acquired by the company. Amount in (cash, shares or debentures) payable to each separate vendor.	
Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for good will.    ..    ..	Total purchase    Rs. price. Cash                ..    „ Shares             ..    „ Debentures        ..    „ Goodwill         ..    Rs.
Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company or Rate of the commission                ..    ..    ..	Amount paid. „        payable Rate per cent.
Estimated amount of preliminary expenses.	Rs.
Amount paid or intended to be paid to any promoter. Consideration for the payment                ..    ..	Name of promoter Amount Rs. Consideration :—
Dates of, and parties to every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company or entered into more than two years before the filing of this statement.)	
Time and place at which the contracts or copies thereof may be inspected.	
Names and addresses of the auditors of the company (if any).	

(a) For definition of vendor, see section 94 of the Mysore Companies Act, 1917.

(b) See section 95 of the Mysore Companies Act, 1917.

Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise by any person either to induce him to become, or to qualify him as a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.

Whether the articles contain any provisions precluding holders of shares or debentures receiving and inspecting balance-sheets or reports of the auditors or other reports.

Nature of the provisions.

(Signature of the persons abovenamed as directors or proposed directors, or of their agents authorised in writing).

.....  
 .....  
 .....

## THE THIRD SCHEDULE.

## FORM A.

(See sections 6 and 151.)

MEMORANDUM OF ASSOCIATION OF A COMPANY  
LIMITED BY SHARES.

- 1st.—The name of the company is “The Eastern Steam Packet Company, Ltd.”
- 2nd.—The registered office of the company will be situate in the province of Bombay.
- 3rd.—The objects for which the company is established are “the conveyance of passengers and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object.”
- 4th.—The liability of the members is limited.
- 5th.—The share capital of the company is two hundred thousand rupees, divided into one thousand shares of two hundred rupees each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses and Descriptions of Subscribers						Number of shares taken by each subscriber
1.	A. B.	of, merchant	..	..	..	200.
2.	C. D.	..	..	..	..	25
3.	E. F.	..	..	..	..	30
4.	G. H.	..	..	..	..	40
5.	I. J.	..	..	..	..	15
6.	K. L.	..	..	..	..	5
7.	M. N.	..	..	..	..	10
Total shares taken						325

Dated the                      day of  
Witness to the above signatures.

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X. Y., of

## FORM B.

(See sections 7 and 151.)

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A  
COMPANY LIMITED BY GUARANTEE AND NOT  
HAVING A SHARE CAPITAL.*Memorandum of Association.*

- 1st.—The name of the company is “The Mutual Calcutta Marine Association, Limited.”
- 2nd.—The registered office of the company will be situate in Calcutta.
- 3rd.—The objects for which the company is established are “the mutual insurance of ships belonging to members of the company, and the doing all such other things as are incidental or conducive to the attainment of the above object.”
- 4th.—The liability of the members is limited.
- 5th.—Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding one hundred rupees.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association.

*Names, Addresses and Descriptions of Subscribers.*

- “ 1. A. B. of  
 “ 2. C. D. of  
 “ 3. E. F. of  
 “ 4. G. H. of  
 “ 5. I. J. of  
 “ 6. K. L. of  
 “ 7. M. N. of

Dated the                      day of

Witness to the above signatures.

X. V. of

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING  
MEMORANDUM OF ASSOCIATION.

*Number of Members.*

1. The company for the purpose of registration is declared to consist of five hundred members.

2. The directors hereinafter mentioned may, whenever the business or the association requires it, register an increase of members.

*Definition of Members.*

3. Every person shall be deemed to have agreed to become a member of the company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

*General Meetings.*

4. The first general meeting shall be held at such time, not being less than one month nor more than three months after the incorporation of the company, and at such place, as the directors may determine.

5. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be called by any two members in the same manner as nearly as possible as that in which meetings are to be called by the directors.

6. The abovementioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

7. The directors may, whenever they think fit, and shall, on a requisition made in writing by any five or more members, call an extraordinary general meeting.

8. Any requisition made by the members must state the object of the meeting proposed to be called, and must be signed by the requisitionists and deposited at the registered office of the company.

9. On receipt of the requisition, the directors shall forthwith proceed to call a general meeting: if they do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists or any other five members may themselves call a meeting.

*Proceedings at General Meetings.*

10. Fourteen days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business, the general nature of the business, shall be given to the members in manner hereinafter mentioned, or in such other manner (if any) as may be prescribed by the company in general meeting; but the non-receipt of such a notice by any member shall not invalidate the proceedings at any general meeting.

11. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting with the exception of the consideration of the accounts, balance-sheets and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of remuneration of the auditors.

12. No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of members is present at the commencement of the business. The quorum shall be ascertained as follows (that is to say)—if the members of the company at the time of the meeting do not exceed ten in number, the quorum shall be five: if they exceed ten, there shall be added to the above quorum one for every five additional members with this limitation, that no quorum shall in any case exceed ten.

13. If within one hour from the time appointed for the meeting, a quorum of members is not present, the meeting, if called on the requisition of the members, shall be dissolved; in any other case it shall stand adjourned to the same day in the following week at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

14. The chairman (if any) of the directors shall preside as chairman at every general meeting of the company.

15. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of that meeting.

16. The chairman may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

17. At any general meeting, unless a poll is demanded by at least three members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

18. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

#### *Votes of Members.*

19. Every member shall have one vote and no more.

20. If any member is a lunatic or idiot, he may vote by his committee or other legal guardian.

21. No member shall be entitled to vote at any meeting unless all moneys due from him to the company have been paid.

22. On a poll, votes may be given either personally or by proxy: Provided that no company shall vote by proxy as long as a resolution of its directors in accordance with the provisions of section 80 of the Mysore Companies Act, 1917, is in force. A proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a corporation under its common seal.

23. (1) No person shall act as a proxy unless he is a member, or unless he is appointed to act at the meeting as proxy for corporation.

(2) The instrument appointing him shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.



24. Any instrument appointing a proxy shall be in the following form :—

I, \_\_\_\_\_, of \_\_\_\_\_, being  
 a Member of the \_\_\_\_\_ Company, Limited,  
 hereby appoint \_\_\_\_\_ of \_\_\_\_\_  
 as my proxy, to vote for me and on my  
 behalf at the [ordinary or extraordinary, as the case may  
 be] general meeting of the company to be held on the \_\_\_\_\_  
 day of \_\_\_\_\_ and at any  
 adjournment thereof.

Signed this \_\_\_\_\_ day of \_\_\_\_\_

*Directors.*

25. The number of the directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

26. Until directors are appointed, the subscribers of the memorandum of association shall, for all the purposes of the Mysore Companies Act, 1917, be deemed to be directors.

#### *Powers of Directors.*

27. The business of the company shall be managed by the directors, who may exercise all such powers of the company as are not by the Mysore Companies Act, 1917, or by any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

#### *Elections of Directors.*

28. The directors shall be elected annually by the company in general meeting.

#### *Business of Company.*

(Here insert *rules as to mode in which business of insurance is to be conducted.*)

#### *Audit.*

29. Auditors shall be appointed and their duties regulated in accordance with sections 144 and 145 of the

Mysore Companies Act, 1917, or any statutory modification thereof for the time being in force, and for this purpose the said sections shall have effect as if the word "members" were substituted for "shareholders," and as if "first general meeting" were substituted for "statutory meeting."

*Notices.*

30. A notice may be given by the company to any member either personally, or by sending it by post to him to his registered address.

31. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, pre-paying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

*Names, Addresses and Descriptions of Subscribers.*

- " 1. A. B. of
- " 2. C. D. of
- " 3. E. F. of
- " 4. G. H. of
- " 5. I. J. of
- " 6. K. L. of
- " 7. M. N. of

*Dated the* \_\_\_\_\_ *day of* \_\_\_\_\_ 19

Witness to the above signatures.

X. Y. of

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FORM C.

(See sections 7 and 151.)

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A  
COMPANY, LIMITED BY GUARANTEE AND  
HAVING A SHARE CAPITAL.

*Memorandum of Association.*

*First.*—The name of the company is "The Snowy Range Hotel Company, Limited."

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

*Dated the*                      *day of*                      19       .  
Witness to the above signatures.  
**X.** Y. of                      ,

*Articles of Association to accompany preceding Memorandum of Association.*

1. The share capital of the company is five hundred thousand rupees, divided into five thousand shares of one hundred rupees each.

2. The directors may, with the sanction of the company in general meeting, reduce the amount of shares in the company.

3. The directors may, with the sanction of the company in general meeting, cancel any shares belonging to the company.

4. All the articles of Table A of the Mysore Companies Act, shall be deemed to be incorporated with these articles and to apply to the company.

*Names, Addresses and Descriptions of Subscribers.*

" 1. A. B. of merchant.

" 2. C. D. of

" 3. E. F. of

" 4. G. H. of

" 5. I. J. of

" 6. K. L. of

" 7. M. N. of

*Dated the* day of 19

Witness to the above signatures.

X. Y. of

FORM D.

(See sections 8 and 151.)

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN  
UNLIMITED COMPANY HAVING A SHARE CAPITAL.

*Memorandum of Association.*

*First.*—The name of the company is "The Patent Stereotype Company."

*Second.*—The registered office of the company will be situate in the

*Third.*—The objects for which the company is established are “the working of a patent method of founding and casting stereotype plates of which method P. Q. of , is the sole patentee.”

. We, the several persons whose names are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses and Descriptions of Subscribers					Number of shares taken by each subscriber
“ 1.	A. B. of	..	..	..	3
“ 2.	C. D. of	..	..	..	2
“ 3.	E. F. of	..	..	..	1
“ 4.	G. H. of	..	..	..	2
“ 5.	I. J. of	..	..	..	2
“ 6.	K. L. of	..	..	..	1
“ 7.	M. N. of	..	..	..	1
Total shares taken ..					12

*Dated the* .. *day of* .. 19 ..

Witness to the above signatures.

X. Y. of ..

*Articles of Association to accompany the preceding Memorandum of Association.*

1. The share capital of the company is twenty thousand rupees, divided into twenty shares of one thousand rupees each.

2. All the articles of Table A of the Mysore Companies Act shall be deemed to be incorporated with these articles, and to apply to the company.

*Names, Addresses and Descriptions of Subscribers.*

“ 1. A. B. of .., merchant.

“ 2. C. D. of

“ 3. E. F. of

“ 4. G. H. of

“ 5. I. J. of

“ 6. K. L. of

“ 7. M. N. of

*Dated the* .. *day of* .. 19 ..

Witness to the above signatures.

X. Y. of

## FORM E.

AS REQUIRED BY PART II OF THE ACT.

(See section 32.)

Summary of Share Capital and Shares of the  
Company, Limited, made up to the                      day of                      19  
(being the day of the first ordinary general meeting  
in 19                      ).

Nominal share capital Rs.	divided	shares of Rs.	each.
*		shares of Rs.	each.
Total number of shares taken up* to the	day of	19	
which number must agree with the total shown in the			
list as held by existing members.			
Number of shares issued subject to payment wholly in cash.			
Number of shares issued as fully paid up otherwise than in cash.			
Number of shares issued as partly up to the extent of			
per share otherwise than in cash.			
† There has been called up on each—of shares	..	..	Rs.
There has been called up on each—of shares	..	..	Rs.
There has been called up on each—of shares	..	..	Rs.
‡ Total amount calls received, including payments on ap- plication and allotment	..	..	Rs.
Total amount (if any) agreed to be considered as paid on shares which have been issued as fully paid up other- wise than in cash	..	..	Rs.
Total amount (if any) agreed to be considered as paid on shares which have been issued on partly paid up to the extent of per share	..	..	Rs.
Total amount of calls unpaid	..	..	Rs.
Total amount (if any) of sums paid by way of commission in respect of shares or debentures or allowed by way of dis- count since date of last summary	..	..	Rs.
Total amount (if any) paid on \$shares forfeited	..	..	Rs.
Total amount of shares and stock for which share-warrants resare outstanding	..	..	Rs.
Total amount of share-warrants issued and surrendered pectively since date of last summary	..	..	Rs.
Number of shares or amount of stock comprised in each share-warrant	..	..	Rs.
Total amount of debt due from the company in respect of all mortgages and charges which are required to be regis- tered with the registrar under this Regulation	..	..	Rs.

\* When there are shares of different kinds or amounts (e.g., Preference and Ordinary or Rs. 200 or Rs. 100,) state the numbers and nominal values separately.

† Where various amounts have been called or there are shares of different kinds, state them separately.

‡ Include what has been received or forfeited as well as on existing shares.

\$ State the aggregate number of shares forfeited

*The Third Schedule.*

List of persons holding shares in the  
Company, Limited, on the                      day of                      19    ,  
and of persons who have held shares herein at any time  
since the date of the last return, showing their names and  
addresses and an account of the shares so held.

Folio in register ledger containing particulars.		Names, addresses and occupations		Account of shares	
Name in full	Father's name	Address	Occupation or caste	* Number of shares held by existing Members at Date of Return	† Particulars of Shares Transferred since the date of the last Return by Persons who are still Members.
				Number †	Particulars of shares transferred since the date of the last Return by Persons who have ceased to be Members.
				Date of Registration of Transfer	
				Number †	
				Date of Registration of Transfer	
				Remarks	

## Names

\* State the aggregate number of shares forfeited (if any).

† The aggregate number of shares held, and not the distinctive numbers, must be stated and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

‡ When the shares are of different classes, these columns may be sub-divided so that the number of each class held or transferred may be shown separately.

¶ The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor and not opposite that of the transferee, but the name of the transferee may be inserted in the Remarks column immediately opposite the particulars of each transfer.

*The Third Schedule.*

Names and addresses of the persons who are the  
directors of the \_\_\_\_\_, Limited, on the  
day of \_\_\_\_\_ 19 .

Names	Addresses

Names and addresses of the persons who are the  
managers of the \_\_\_\_\_, Limited, on the  
day of \_\_\_\_\_ 19 .

Names	Addresses

NOTE.—Banking companies must add a list of all their places of business.

I, \_\_\_\_\_, do hereby certify that the  
above list and summary truly and correctly states the  
facts as they stood on the \_\_\_\_\_ day of \_\_\_\_\_ 19 .

(Signature)\_\_\_\_\_

(State whether director, manager or secretary.)

FORM F.





ANY SINKING FUND	..	..	..	..	Loose Tools	..	..	..	..
ANY OTHER FUND CREATED OUT OF NET PROFITS.	..	..	..	..	Live Stock	..	..	..	..
ANY PENSION OR INSURANCE FUND	..	..	..	..	Stock in Trade	..	..	..	..
PROVISION FOR BAD AND DOUBTFUL DEBTS.	..	..	..	..	(Stating mode of valuation, e.g. cost or market-value.)	..	..	..	..
LOANS ON MORTGAGE OR MORTGAGE DEBENTURE BONDS.	..	..	..	..	Bills of Exchange	..	..	..	..
LOANS OTHERWISE SECURED <sup>e</sup> (Stating the nature of security.)	..	..	..	..	Book Debts	..	..	..	..
LOANS UNSECURED.	..	..	..	..	(Distinguishing in the case of a Bank between those considered good and in respect of which the Bank is fully secured and those considered good for which the Bank holds no security other than the debtor's personal security, and distinguishing in all cases between debts considered good and debts considered doubtful or bad. Debts due by Directors or other officers of the company or any of them either severally or jointly with any other persons to be separately stated in all cases.)	..	..	..	..
INTEREST .. Accrued on Mortgages, Debentures or other Secured Loans.	..	..	..	..	Advances	..	..	..	..
UNCLAIMED DIVIDENDS	..	..	..	..	(Recoverable in cash or in kind or for value to be received, e.g., Rates, Taxes, Insurance, etc.)	..	..	..	..
LIABILITIES	..	..	..	..	Investments	..	..	..	..
For Goods supplied	..	..	..	..	(Nature of Investment and mode of valuation, e.g., cost of market-value.)	..	..	..	..
" Expenses	..	..	..	..					
" Acceptances	..	..	..	..					
" Other Finance	..	..	..	..					
ADVANCE PAYMENTS AND UNEXPIRED DISCOUNTS.	..	..	..	..					



*The Third Schedule.*

## FORM G.

*(See Section 136.)*FORM OF STATEMENT TO BE PUBLISHED BY BANKING AND  
INSURANCE COMPANIES AND DEPOSIT, PROVIDENT, OR  
BENEFIT SOCIETIES.

\* The share capital of the company is Rs. divided  
into shares of each

The number of shares issued is . Calls to the  
amount of Rs. per share have been made, under which the  
sum of Rs. has been received.

The liabilities of the company on the thirty-first day of December  
(or thirtieth of June) were :—

Debts owing to sundry persons by the company.

Under decree, Rs.

On mortgages or bonds, Rs.

On notes, bills or hundis, Rs.

On other contracts, Rs.

On estimated liabilities, Rs.

The assets of the company on that day were :—

Government securities [stating them], Rs.

Bills of exchange, hundis and promissory notes, Rs.

Cash at the Banker , Rs.

Other securities, Rs.

**THE**


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\* If the company has no capital divided into shares, the portion of the statement relating to capital and share must be omitted.

*The Fourth Schedule.*

## THE FOURTH SCHEDULE.

*(See Section 290.)*

## ENACTMENT REPEALED.

1	2	3	4
Year	No.	Subject or short title	Extent of repeal
1885	III	The Mysore Companies Act, 1895.	So much as has not been repealed.

# ACT No. III OF 1918.

*(Received the Assent of His Highness the Maharaja  
on the 6th day of March 1918.)*

## **An Act to make provision for the Registration of Births and Deaths in Rural Tracts.**

Whereas it is expedient to make provision for the registration of births and deaths in rural tracts; His Highness the Maharaja is pleased to enact as follows:—

Preamble.

1. This Act may be called the Mysore Registration of Births and Deaths Act, 1918.

Title.

2. The Government may, by notification, extend this Act, or any portion thereof, to any local area beyond the limits of the Municipalities constituted under the Mysore Municipal Act, 1906, and may also by notification exclude any such local area from the operation of the Act or any portion thereof.

Extension and withdrawal of Act.

3. In this Act, unless there is something repugnant in the subject or context,—

Interpretation Clause.

“Village” means any local area which for purposes of revenue-administration is now recognised as a village, or which may hereafter be declared by the Government to be a village, and in which local area this Act or any portion thereof is in force;

“Village”.

“Registrar” means a person appointed registrar of births and deaths under section 5 of this Act.

“Registrar.”

4. On the publication of a notification under section 2 extending this Act or any portion thereof to any local area, the Deputy Commissioner shall cause to be proclaimed in Kannada by notices posted at the village chavadi or other conspicuous place and by beat of drum in every village within the area so notified and by publication in the Official Gazette the date from which registration of births and deaths will be compulsory in the said area.

Deputy Commissioner to proclaim that registration will be compulsory.

5. (1) On the publication of such notification, the Deputy Commissioner shall appoint a person either by name or by virtue of any office he may hold to be registrar

Appointment of Registrars.

of births and deaths for each village, or may if he sees fit divide any village into wards and appoint a person either by name or by virtue of any office he may hold to be registrar of births and deaths for each ward.

Registrars to keep registers in the prescribed form.

Registrars to live in their villages or wards.

(2) Every registrar so appointed shall keep in the prescribed form a register of births and deaths for his village or ward, as the case may be.

6. Every such registrar shall, unless otherwise expressly authorised by the Deputy Commissioner in writing, reside within the village or ward of which he is the registrar, and shall cause his name, with the addition of registrar of births and deaths for the village or ward for which he is so appointed, written in Kannada to be placed in some conspicuous place on or near the outer door of his office.

Deputy Commissioner to have registers printed and supplied.

7. (1) The Deputy Commissioner shall cause to be printed and supplied a sufficient number of register-books for making entries of births and deaths according to such forms and instructions as may, from time to time, be prescribed by the Government.

Copy of such forms to be posted in the office of the Registrar. Information of birth to be given within two weeks.

(2) A copy of such forms in Kannada shall be posted in some conspicuous place on or near the outer door of the office of every registrar.

8. The father of every child or, in case of the death, illness, absence or inability of the father, the midwife assisting at the birth, and in her default every adult male member of the family resident in the house in which the child was born and any person having charge of the child, or in default of the above, the mother, shall, within two weeks next after the day of such birth, give or cause to be given, either orally or in writing, information to the registrar, according to the best of his knowledge and belief, of the several particulars required to be entered in the forms prescribed under section 7 :

Provisos.

Provided that, a person not required to give information in the first instance but only in default of some other person shall not be bound to give information under this Act if he had reasonable cause to suppose that the information has been or would be duly given by such other person :

Provided also that, in the case of an illegitimate child, it shall in the first instance be the duty of the mother of such child to give information under this Regulation, and no person shall, as father of such child, be required to give information under this Act concerning the birth

of such child, and the registrar shall not enter in the register the name of any person as father of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and unless such person shall sign the register together with the mother.

9. In case any new-born child is found exposed, it shall be the duty of any person finding such child and of any person in whose charge such child may be placed to give, to the best of his knowledge and belief, to the registrar within seven days after the finding of such child, such information of the particulars required to be registered concerning the birth of such child as the informant possesses.

Information to be given respecting new-born child found exposed.

10. The nearest adult male relative present at the death, or in attendance during the last illness, of any person dying in a village, or, in case of the default of such relative, every adult male person present at the death, or, in case of their default the occupier of the house, or in his default every adult male person living in the house in which such death has happened, or, in case of the default of such inmate, the person undertaking the disposal of the corpse shall, within seven days from the date of death, give or cause to be given, either orally or in writing, information to the registrar, according to the best of his knowledge and belief of the several particulars required to be entered in the forms prescribed under section 7 :

Information of death to be given within seven days.

Provided that, a person not required to give information in the first instance, but only in default of some other person, shall not be bound to give information under this Act if he had reasonable cause to suppose that the information had been or would be duly given by such other person.

11. In case any person is found dead in a village under circumstances not covered by section 10, it shall be the duty of the head of the village to give forthwith, to the best of his knowledge and belief, to the registrar, such information of the particulars required to be registered concerning such death as the informant possesses.

Head of the village bound to give information regarding other deaths.

12. Notwithstanding anything contained in sections 8 and 10 of this Act,—

(1) in case of a child being born or of a person dying in any hospital, it shall be the duty of the medical officer in charge forthwith to send to the registrar a notice in

In case of births and deaths in hospital, medical officer in charge to send notice to the registrar.



writing of the occurrence of such birth or death containing the several particulars required to be entered in the forms prescribed under section 7 ;

In case of births and deaths in choultries etc., keeper or person in charge to give the information required.

(2) in case of a child being born or of a person dying in any choultry, chattram, hotel, boarding-house, lodging-house, tavern, arrack or toddy shop or place of public resort, it shall be the duty of the owner, keeper or person in charge thereof to give the information required under sections 8 and 10 in the manner specified therein within forty-eight hours of the birth or death, as the case may be.

A person giving oral information to write his name in the register.

13. Every person who has orally given to a registrar any information required under this Act shall write in the register his name, description and place of abode, and, if he cannot write, shall put his mark in the register to his name, description and place of abode, these particulars being in such case entered by the registrar.

When registrar to give extract free of charge.

14. The registrar shall, as soon as the registration of the birth of a child has been completed, give, on application, free of all charge, to the person who gives information of the birth an extract under his hand from the register relating to such birth.

Registrar to register information without fee or reward and inform himself of every birth and death.

15. Every registrar shall without fee or reward register all information furnished to him under sections 8 to 13, and it shall also be his duty to inform himself carefully of every birth and of every death which takes place in his village or ward, and he shall ascertain and register, as soon as conveniently may be after the event, the particulars required to be registered according to the forms prescribed under section 7 touching every such birth and death, as the case may be, which has not already been registered.

Entry of name of child.

16. When the birth of any child has been registered without name, the parent or guardian of such child may, within twelve months next after the registration of birth, require the registrar to enter in the register the name of such child ; and the registrar shall thereupon enter the name, and shall initial and date the entry.

Search of births and deaths registers.

17. Subject to any rules which the Government may make under section 20, any person may, at all reasonable times, on payment of a fee of four annas for each visit, search any register of births and deaths, and may on payment of a further fee of four annas obtain an extract from such register relating to any birth or death registered therein.

All extracts given under this section shall be certified as provided in section 76 of the Indian Evidence Act, 1872, and may be produced in proof of the entries of which they purport to be copies.

18. Any person who—

(1) fails without reasonable cause to give any information which it is his duty to give under sections 8, 9, 10, 11 and 12 of this Act; or

Penalty for omission to give information, etc.

(2) gives, or causes to be given, for the purpose of being inserted in any register of births or deaths, any information which is false and which he knows or believes to be false touching any of the particulars required to be known and registered; or

(3) refuses to write his name, description and place of abode or to put his mark in the register if required by section 13;

shall, on conviction before a Magistrate, be liable to fine not exceeding ten rupees.

19. (1) No prosecution in respect of any offence punishable under this Act shall be instituted except under the order of the Amildar having jurisdiction over the village in which the offence was committed or of an officer to whom the Amildar is subordinate.

Prosecutions not to be instituted except under the order of an Amildar or an officer superior to him.

The Deputy Commissioner or any officer generally or especially empowered by him in this behalf may stay such prosecution.

(2) In prosecutions for offences under the provisions of this Act, the accused person may appear by an agent and may of right be defended by an agent:

Accused persons may appear and be defended by agents.

Provided that, the Magistrate may at any stage of the proceedings, for reasons to be recorded in writing, direct the personal attendance of the accused.

20. The Government may, after previous publication, make rules—

Power of Government to frame forms and make rules.

(1) prescribing the forms of registers of births and deaths required to be kept under this Act;

(2) prescribing returns and extracts to be submitted from time to time by the registrar;

(3) for the inspection and examination of the registers maintained under section 5;

(4) for the conduct of the duties of the registrar during his absence on other duty or on account of illness or other cause.

(5) for the custody, production and transfer of the registers and other records kept by registrars;

(6) for the correction of clerical errors which may be discovered in the registers of births or registers of deaths;

(7) generally to carry out the provisions of this Act.

# The Transfer of Property Act.

(No. IV of 1918.)

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-

ACT No. IV OF 1918.

*(Received the assent of His Highness the Maharaja  
on the 14th day of March 1918.)*

**Act to amend the law relating to the Transfer  
of Property by Act of Parties.**

Whereas it is expedient to define and amend certain Preamble.  
parts of the law relating to the transfer of property by act  
of parties ; His Highness the Maharaja is pleased to enact  
as follows :—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Transfer of Property Short title.  
Act.

It shall come into force on the first day of July 1918. Commence-  
It extends to the whole of Mysore. ment.

2. Nothing herein contained shall be deemed to Extent.  
affect— Repeal.

- (a) the provisions of any enactment not hereby Saving of  
expressly repealed : certain en-
- (b) any terms or incidents of any contract or con- actments,  
stitution of property which are consistent with incidents,  
the provisions of this Act and are allowed rights, lia-  
by the law for the time being in force : bilities, etc.
- (c) any right or liability arising out of a legal relation  
constituted before this Act comes into  
force, or any relief in respect of any such right  
or liability : or
- (d) save as provided by section 57 and Chapter IV  
of this Regulation any transfer by operation  
of law or by, or in execution of, a decree or  
order of a Court of competent jurisdiction :

and save as provided in sections 13 and 14, nothing  
in the second chapter of this Act shall be deemed to affect  
any rule of Hindu, Muhammadan or Buddhist law.



Interpreta-  
tion clause.

3. In this Act, unless there is something repugnant in the subject or context,—

“immovable property” does not include standing timber, growing crops or grass :

“instrument” means a non-testamentary instrument :

“registered” means registered in Mysore under the law for the time being in force regulating the registration of documents :

“attached to the earth” means—

(a) rooted in the earth, as in the case of trees and shrubs ;

(b) imbedded in the earth, as in the case of walls or buildings ; or

(c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached :

“actionable claim” means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent ;

and a person is said to have “notice” of a fact when he actually knows that fact, or when, but for wilful abstention from an enquiry or search which he ought to have made, or gross negligence, he would have known it, or when information of the fact is given to or obtained by his agent under the circumstances mentioned in the Indian Contract Act, 1872, section 229.

Enactments  
relating to  
contracts  
to be taken  
as part of  
Contract Act.

4. The chapters and sections of this Act which relate to contracts shall be taken as part of the Indian Contract Act, 1872.

And sections 54, paragraphs 2 and 3, 59, 107 and 123 shall be read as supplemental to the Mysore Registration Act, 1903.

## CHAPTER II.

### OF TRANSFERS OF PROPERTY BY ACT OF PARTIES.

#### (A) *Transfer of Property whether Movable or Immovable.*

“Transfer  
of property”  
defined.

5. In the following sections “transfer of property” means an act by which a living person conveys property

in present or in future, to one or more other living persons, or to himself and one or more other living persons; and "to transfer property" is to perform such act.

6. Property of any kind may be transferred, except as otherwise provided by this Regulation or by any other law for the time being in force. What may be transferred.

- (a) The chance of an heir-apparent succeeding to an estate, the chance of a relation obtaining a legacy on the death of a kinsman, or any other mere possibility of a like nature, cannot be transferred.
- (b) A mere right of re-entry for breach of a condition subsequent cannot be transferred to any one except the owner of the property affected thereby.
- (c) An easement cannot be transferred apart from the dominant heritage.
- (d) An interest in property restricted in its enjoyment to the owner personally cannot be transferred by him.
- (e) A mere right to sue cannot be transferred.
- (f) A public office cannot be transferred, nor can the salary of a public officer, whether before or after it has become payable.
- (g) Stipends allowed to military and civil pensioners of Government and political pensions cannot be transferred.
- (h) No transfer can be made (1) in so far as it is opposed to the nature of the interest affected thereby, or (2) for an unlawful object or consideration within the meaning of section 23 of the Indian Contract Act, 1872, or (3) to a person legally disqualified to be transferee.
- (i) Nothing in this section shall be deemed to authorize a tenant having an untransferable right of occupancy, or the farmer of an estate in respect of which default has been made in paying revenue, to assign his interest as such tenant or farmer.

7. Every person competent to contract and entitled to transferable property, or authorized to dispose of transferable property, not his own, is competent to transfer such property either wholly or in part, and either absolutely or conditionally, in the circumstances, to the extent and in the manner allowed and prescribed by any law for the time being in force. Persons competent to transfer.

Operation of  
transfer.

8. Unless a different intention is expressed or necessarily implied, a transfer of property passes forthwith to the transferee all the interest which the transferor is then capable of passing in the property, and in the legal incidents thereof.

Such incidents include, where the property is land, the easements annexed thereto, the rents and profits thereof accruing after the transfer, and all things attached to the earth ;

and, where the property is machinery attached to the earth, the movable parts thereof ;

and, where the property is a house, the easements annexed thereto, the rent thereof accruing after the transfer, and the locks , keys, bars, doors, windows, and all other things provided for permanent use therewith ;

and, where the property is a debt or other actionable claim, the securities therefor (except where they are also for other debts or claims not transferred to the transferee) but not arrears of interest accrued before the transfer ;

and, where the property is money or other property yielding income, the interest or income thereof accruing after the transfer takes effect.

Oral transfer.

9. A transfer of property may be made without writing in every case in which a writing is not expressly required by law.

Condition  
restraining  
alienation.

10. Where property is transferred subject to a condition or limitation absolutely restraining the transferee or any person claiming under him from parting with or disposing of his interest in the property, the condition or limitation is void, except in the case of a lease where the condition is for the benefit of the lessor or those claiming under him: Provided that property may be transferred to or for the benefit of a woman (not being a Hindu, Muhammadan or Buddhist), so that she shall not have power during her marriage to transfer or change the same or her beneficial interest therein.

Restriction  
repugnant  
to interest  
created.

11. Where, on a transfer of property, an interest therein is created absolutely in favour of any person, but the terms of the transfer direct that such interest shall be applied or enjoyed by him in a particular manner, he shall be entitled to receive and dispose of such interest as if there were no such direction.

Nothing in this section shall be deemed to affect the right to restrain, for the beneficial enjoyment of one piece of immovable property, the enjoyment of another piece

of such property, or to compel the enjoyment thereof in a particular manner.

**12.** Where property is transferred subject to a condition or limitation making any interest therein, reserved or given to or for the benefit of any person, to cease on his becoming insolvent or endeavouring to transfer or dispose of the same, such condition or limitation is void.

Condition making interest determinable on insolvency or attempted alienation.

Nothing in this section applies to a condition in a lease for the benefit of the lessor or those claiming under him.

**13.** Where, on a transfer of property, an interest therein is created for the benefit of a person not in existence at the date of the transfer, subject to a prior interest created by the same transfer, the interest created for the benefit of such person shall not take effect, unless it extends to the whole of the remaining interest of the transferor in the property: Provided that where a transfer as aforesaid is made by a person governed by the Hindu Law, the interest created for the benefit of a person not in existence at the date of the transfer shall take effect notwithstanding that it does not extend to the whole of the remaining interest of the transferor in the property.

Transfer for benefit of unborn person.

### *Illustration.*

A, not being a person governed by the Hindu Law, transfers property of which he is the owner to B in trust for A and his intended wife successively for their lives, and after the death of the survivor, for the eldest son of the intended marriage for life, and after his death for A's second son. The interest so created for the benefit of the eldest son does not take effect, because it does not extend to the whole of A's remaining interest in the property.

**14.** (1) No transfer of property can operate to create an interest which is to take effect after the life-time of one or more persons living at the date of such transfer, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the interest created is to belong.

Rule against perpetuity.

(2) Subject to the limitation specified in sub-section (1), no transfer *inter vivos* of property by a Hindu shall be invalid by reason only that any person for whose benefit it may have been made was not in existence at the date of such transfer.

**15.** If, on a transfer of property, an interest therein is created for the benefit of a class of persons with regard to some of whom such interest fails by reason of any of

Transfer to class some of whom come under sections 13 and 14.

the rules contained in sections 13 and 14, such interest fails as regards the whole class.

Transfer to  
take effect  
on failure  
of prior  
transfer.

16. Where an interest fails by reason of any of the rules contained in sections 13, 14 and 15, any interest created in the same transaction and intended to take effect after or upon failure of such prior interest also fails.

Transfer in  
perpetuity  
for benefit  
of public.

17. The restrictions in sections 14, 15 and 16 shall not apply to property transferred for the benefit of the public in the advancement of religion, knowledge, commerce, health, safety or any other object beneficial to mankind.

Direction for  
accumulation

18. Where the terms of a transfer of property direct that the income arising from the property shall be accumulated, such direction shall be void, and the property shall be disposed of as if no accumulation had been directed.

*Exception.*—Where the property is immovable or where accumulation is directed to be made from the date of the transfer, the direction shall be valid in respect only of the income arising from the property within one year next following such date; and at the end of the year such property and income shall be disposed of respectively as if the period during which the accumulation has been directed to be made had elapsed.

Vested in-  
terest.

19. Where, on a transfer of property, an interest therein is created in favour of a person without specifying the time when it is to take effect, or in terms specifying that it is to take effect forthwith or on the happening of an event which must happen, such interest is vested, unless a contrary intention appears from the terms of the transfer.

A vested interest is not defeated by the death of the transferee before he obtains possession.

*Explanation.*—An intention that an interest shall not be vested is not to be inferred merely from a provision whereby the enjoyment thereof is postponed, or whereby a prior interest in the same property is given or reserved to some other person, or whereby income arising from the property is directed to be accumulated until the time of enjoyment arrives, or from a provision that if a particular event shall happen the interest shall pass to another person.

When un-  
born person  
acquires  
vested  
interest on  
transfer for  
his benefit.

20. Where, on a transfer of property, an interest therein is created for the benefit of a person not then living, he acquires upon his birth, unless a contrary intention

appear from the terms of the transfer, a vested interest, although he may not be entitled to the enjoyment thereof immediately on his birth.

21. Where, on a transfer of property, an interest therein is created in favour of a person to take effect only on the happening of a specified uncertain event, or if a specified uncertain event shall not happen, such person thereby acquires a contingent interest in the property. Such interest becomes a vested interest, in the former case, on the happening of the event, in the latter, when the happening of the event becomes impossible.

Contingent interest.

*Exception.*—Where, under a transfer of property, a person becomes entitled to an interest therein upon attaining a particular age, and the transferor also gives to him absolutely the income to arise from such interest before he reaches that age, or directs the income or so much thereof as may be necessary to be applied for his benefit, such interest is not contingent.

22. Where, on a transfer of property, an interest therein is created in favour of such members only of a class as shall attain a particular age, such interest does not vest in any member of the class who has not attained that age.

Transfer to members of a class who attain a particular age.

23. Where, on a transfer of property, an interest therein is to accrue to a specified person if a specified uncertain event shall happen and no time is mentioned for the occurrence of that event, the interest fails unless such event happens before, or at the same time as, the intermediate or precedent interest ceases to exist.

Transfer contingent on happening of specified uncertain event.

24. Where, on a transfer of property, an interest therein is to accrue to such of certain persons as shall be surviving at some period, but the exact period is not specified, the interest shall go to such of them as shall be alive when the intermediate or precedent interest ceases to exist, unless a contrary intention appears from the terms of the transfer.

Transfer to such of certain persons as survive at some period not specified.

### *Illustration.*

A transfers property to B for life, and after his death to C and D, equally to be divided between them, or to the survivor of them. C dies during the life of B. D survives B. At B's death the property passes to D.

25. An interest created on a transfer of property and dependent upon a condition fails if the fulfilment of the condition is impossible, or is forbidden by law, or is of

Conditional transfer.

such a nature that, if permitted, it would defeat the provisions of any law, or is fraudulent, or involves or implies injury to the person or property of another, or the Court regards it as immoral or opposed to public policy.

### *Illustrations.*

(a) A lets a farm to B on condition that he shall walk a hundred miles in an hour. The lease is void.

(b) A gives Rs. 500 to B on condition that he shall marry A's daughter C. At the date of the transfer C was dead. The transfer is void.

(c) A transfers Rs. 500 to B on condition that he shall murder C. The transfer is void.

(d) A transfers Rs. 500 to his niece C if she will desert her husband. The transfer is void.

Fulfilment  
of condition  
precedent.

**26.** When the terms of a transfer of property imposes a condition to be fulfilled before a person can take an interest in the property, the condition shall be deemed to have been fulfilled if it has been substantially complied with.

### *Illustrations.*

(a) A transfers Rs. 5,000 to B on condition that he shall marry with the consent of C, D and E. E dies. B marries with the consent of C and D. B is deemed to have fulfilled the condition.

(b) A transfers Rs. 5,000 to B on condition that he shall marry with the consent of C, D and E. B marries without the consent of C, D and E, but obtains their consent after the marriage. B has not fulfilled the condition.

Conditional  
transfer to  
one person  
coupled  
with transfer  
to another  
on failure  
of prior  
disposition.

**27.** Where, on a transfer of property, an interest therein is created in favour of one person, and by the same transaction an ulterior disposition of the same interest is made in favour of another, if the prior disposition under the transfer shall fail, the ulterior disposition shall take effect upon the failure of the prior disposition, although the failure may not have occurred in the manner contemplated by the transferor.

But, where the intention of the parties to the transaction is that the ulterior disposition shall take effect only in the event of the prior disposition failing in a particular manner, the ulterior disposition shall not take effect unless the prior disposition fails in that manner.

### *Illustrations.*

(a) A transfers Rs. 500 to B on condition that he shall execute a certain lease within three months after A's death, and, if he should neglect to do so, to C. B dies in A's life-time. The disposition in favour of C takes effect.

(b) A transfers property to his wife; but, in case she should die in his life-time, transfers to B that which he had transferred to her. A and his wife perish together under circumstances which make it impossible to prove that she died before him. The disposition in favour of B does not take effect.

28. On a transfer of property an interest therein may be created to accrue to any person with the condition superadded that in case a specified uncertain event shall happen such interest shall pass to another person, or that in case a specified uncertain event shall not happen such interest shall pass to another person. In each case the dispositions are subject to the rules contained in sections 10, 12, 21, 22, 23, 24, 25 and 27.

Uterior transfer conditional on happening or not happening of specified event.

29. An ulterior disposition of the kind contemplated by the last preceding section cannot take effect unless the condition is strictly fulfilled.

Fulfilment of condition subsequent.

### *Illustration.*

A transfers Rs. 500 to B, to be paid to him on his attaining his majority or marrying, with a proviso that, if B dies a minor or marries without C's consent, the Rs. 500 shall go to D. B marries when only 17 years of age, without C's consent. The transfer to D takes effect.

30. If the ulterior disposition is not valid, the prior disposition is not affected by it.

Prior disposition not affected by invalidity of ulterior disposition.

### *Illustration.*

A transfers a farm to B for her life, and, if she do not desert her husband, to C. B is entitled to the farm during her life as if no condition had been inserted.

31. Subject to the provisions of section 12, on a transfer of property an interest therein may be created with the condition superadded that it shall cease to exist in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

Condition that transfer shall cease to have effect in case specified uncertain event happens or does not happen.

### *Illustrations.*

(a) A transfers a farm to B for his life, with a proviso that, in case B cuts down a certain wood, the transfer shall cease to have any effect. B cuts down the wood. He loses his life-interest in the farm.

(b) A transfers a farm to B, provided that, if B shall not go to England within three years after the date of the transfer, his interest in the farm shall cease. B does not go to England within the term prescribed. His interest in the farm ceases.

32. In order that a condition that an interest shall cease to exist may be valid, it is necessary that the event

Such condition must not be invalid.



to which it relates be one which could legally constitute the condition of the creation of an interest.

Transfer conditional on performance of act, no time being specified for performance.

33. Where, on a transfer of property, an interest therein is created subject to a condition that the person taking it shall perform a certain act, but no time is specified for the performance of the act, the condition is broken when he renders impossible, permanently or for an indefinite period, the performance of the act.

Transfer conditional on performance of act, time being specified.

34. Where an act is to be performed by a person either as a condition to be fulfilled before an interest created on a transfer of property is enjoyed by him or as a condition on the non-fulfilment of which the interest is to pass from him to another person, and a time is specified for the performance of the act, if such performance within the specified time is prevented by the fraud of a person who would be directly benefited by non-fulfilment of the condition, such further time shall as against him be allowed for performing the act as shall be requisite to make up for the delay caused by such fraud. But if no time is specified for the performance of the act, then, if its performance is by the fraud of a person interested in the non-fulfilment of the condition rendered impossible or indefinitely postponed, the condition shall as against him be deemed to have been fulfilled.

### *Election.*

Election when necessary.

35. Where a person professes to transfer property which he has no right to transfer, and as part of the same transaction confers any benefit on the owner of the property, such owner must elect either to confirm such transfer or to dissent from it; and in the latter case he shall relinquish the benefit so conferred, and the benefit so relinquished shall revert to the transferor or his representative as if it had not been disposed of,

subject nevertheless, where the transfer is gratuitous, and the transferor has, before the election died or otherwise become incapable of making a fresh transfer,

and in all cases where the transfer is for consideration,

to the charge of making good to the disappointed transferee the amount or value of the property attempted to be transferred to him,

*Illustrations.*

The farm of Sultanpur is the property of C and worth Rs. 800. A by an instrument of gift professes to transfer it to B, giving by the same instrument Rs. 1,000 to C. C elects to retain the farm. He forfeits the gift of Rs. 1,000.

In the same case, A dies before the election. His representative must, out of the Rs. 1,000, pay Rs. 800 to B.

The rule in the first paragraph of this section applies whether the transferor does or does not believe that which he professes to transfer to be his own.

A person taking no benefit directly under a transaction but deriving a benefit under it indirectly, need not elect.

A person who in his own capacity takes a benefit under the transaction may in another dissent therefrom.

*Exception to the last preceding four Rules.*—Where a particular benefit is expressed to be conferred on the owner of the property which the transferor professes to transfer, and such benefit is expressed to be in lieu of that property, if such owner claim the property, he must relinquish the particular benefit, but he is not bound to relinquish any other benefit conferred upon him by the same transaction.

Acceptance of the benefit by the person on whom it is conferred constitutes an election by him to confirm the transfer, if he is aware of his duty to elect and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives enquiry into the circumstances.

Such knowledge or waiver shall, in the absence of evidence to the contrary, be presumed, if the person on whom the benefit has been conferred has enjoyed it for two years without doing any act to express dissent.

Such knowledge or waiver may be inferred from any act of his which renders it impossible to place the persons interested in the property professed to be transferred in the same condition as if such act had not been done.

*Illustration.*

A transfers to B an estate to which C is entitled, and as part of the same transaction gives C a coal-mine. C takes possession of the mine and exhausts it. He has thereby confirmed the transfer of the estate to B.

If he does not within one year after the date of the transfer signify to the transferor or his representatives his intention to confirm or to dissent from the transfer, the transferor or his representatives may, upon the expiration

of that period, require him to make his election; and, if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the transfer.

In case of disability, the election shall be postponed until the disability ceases, or until the election is made by some competent authority.

### *Apportionment.*

Apportionment of periodical payments on determination of interest of person entitled.

**36.** In the absence of a contract or local usage to the contrary, all rents, annuities, pensions, dividends and other periodical payments in the nature of income shall, upon the transfer of the interest of the person entitled to receive such payments, be deemed, as between the transferor and transferee, to accrue due from day to day, and to be apportionable accordingly, but to be payable on the days appointed for the payment thereof.

Apportionment of benefit of obligation on severance.

**37.** When, in consequence of a transfer, property is divided and held in several shares, and thereupon the benefit of any obligation relating to the property as a whole passes from one to several owners of the property, the corresponding duty shall, in the absence of a contract to the contrary amongst the owners, be performed in favour of each of such owners in proportion to the value of his share in the property, provided that the duty can be severed and that the severance does not substantially increase the burden of the obligation; but if the duty cannot be severed, or if the severance would substantially increase the burden of the obligation, the duty shall be performed for the benefit of such one of the several owners as they shall jointly designate for that purpose:

Provided that no person on whom the burden of the obligation lies shall be answerable for failure to discharge it in manner provided by this section, unless and until he has had reasonable notice of the severance.

Nothing in this section applies to leases for agricultural purposes unless and until the Government by notification in the official Gazette so directs.

### *Illustrations.*

(a) A sells to B, C and D a house situate in a village and leased to E at an annual rent of Rs. 30 and delivery of one fat sheep, B having provided half the purchase money and C and D one quarter each. E, having notice of this, must pay Rs. 15 to B, Rs.  $7\frac{1}{2}$  to C and Rs.  $7\frac{1}{2}$  to D, and must deliver the sheep according to the joint direction of B, C and D.

(b) In the same case, each house in the village being bound to provide ten days' labour each year on a dyke to prevent inundation, E had agreed as a term of his lease to perform this work for A, B, C and D severally require E to perform the ten days' work due on account of the house of each. E is not bound to do more than ten days work in all, according to such directions as B, C and D may join in giving.

### (B) *Transfer of Immovable Property.*

38. Where any person, authorized only under circumstances in their nature variable to dispose of immovable property, transfers such property for consideration, alleging the existence of such circumstances, they shall, as between the transferee on the one part and the transferor and other persons (if any) affected by the transfer on the other part, be deemed to have existed, if the transferee, after using reasonable care to ascertain the existence of such circumstances, has acted in good faith.

Transfer by person authorized only under certain circumstances to transfer.

#### *Illustration.*

A, a Hindu widow, whose husband has left collateral heirs alleging that the property held by her as such is insufficient for her maintenance, agrees, for purposes neither religious nor charitable, to sell a field, part of such property, to B. B satisfies himself by reasonable enquiry that the income of the property is insufficient for A's maintenance, and that the sale of the field is necessary and, acting in good faith, buys the field from A. As between B on the one part and A and the collateral heirs on the other part, a necessity for the sale shall be deemed to have existed.

39. Where a third person has a right to receive maintenance or a provision for advancement or marriage from the profits of immovable property, and such property is transferred with the intention of defeating such right, the right may be enforced against the transferee, if he has notice of such intention or if the transfer is gratuitous; but not against a transferee for consideration and without notice of such intention, nor against such property in his hands.

Transfer where third person is entitled to maintenance

#### *Illustration.*

A, a Hindu, transfers Sultanpur to his sister-in-law B, in lieu of her claim against him for maintenance in virtue of his having become entitled to her deceased husband's property, and agrees with her that, if she is dispossessed of Sultanpur, A will transfer to her an equal area out of such of several other specified villages in his possession as she may elect. A sells the specified villages to C, who buys in good faith, without notice of the agreement. B is dispossessed of Sultanpur. She has no claim on the villages transferred to C.

Burden of obligation imposing restriction on use of land.

**40.** Where, for the more beneficial enjoyment of his own immovable property, a third person has, independently of any interest in the immovable property of another or of any easement thereon, a right to restrain the enjoyment of the latter property or to compel its enjoyment in a particular manner, or

where a third person is entitled to the benefit of an obligation arising out of contract and annexed to the ownership of immovable property, but not amounting to an interest therein or easement thereon,

or of obligation annexed to ownership but not amounting to interest or easement.

such right or obligation may be enforced against a transferee with notice thereof or a gratuitous transferee of the property affected thereby, but not against a transferee for consideration and without notice of the right or obligation, nor against such property in his hands.

#### *Illustration.*

A contracts to sell Sultanpur to B. While the contract is still in force he sells Sultanpur to C, who has notice of the contract. B may enforce the contract against C to the same extent as against A.

Transfer by ostensible owner.

**41.** Where, with the consent, express or implied, of the persons interested in immovable property, a person is the ostensible owner of such property and transfers the same for consideration, the transfer shall not be voidable on the ground that the transferor was not authorized to make it: provided that the transferee, after taking reasonable care to ascertain that the transferor had power to make the transfer, has acted in good faith.

Transfer by person having authority to revoke former transfer.

**42.** Where a person transfers any immovable property, reserving power to revoke the transfer, and subsequently transfers the property for consideration to another transferee, such transfer operates in favour of such transferee (subject to any condition attached to the exercise of the power) as a revocation of the former transfer to the extent of the power.

#### *Illustration.*

A lets a house to B, and reserves power to revoke the lease if, in the opinion of a specified surveyor, B should make a use of it detrimental to its value. Afterwards A, thinking that such a use has been made, lets the house to C. This operates as a revocation of B's lease subject to the opinion of the surveyor as to B's use of the house having been detrimental to its value.

Transfer by unauthorized person who subsequently acquires interest in property transferred.

**43.** Where a person erroneously represents that he is authorized to transfer certain immovable property and professes to transfer such property for consideration, such transfer shall, at the option of the transferee, operate on

any interest which the transferor may acquire in such property at any time during which the contract of transfer subsists.

Nothing in this section shall impair the right of transferees in good faith for consideration without notice of the existence of the said option.

*Illustration.*

A, a Hindu, who has separated from his father B, sells to C three fields, X, Y and Z, representing that A is authorized to transfer the same. Of these fields Z does not belong to A, it having been retained by B on the partition; but on B's dying A as heir obtains Z. C, not having rescinded the contract of sale, may require A to deliver Z to him.

44. Where one of two or more co-owners of immovable property legally competent in that behalf transfers his share of such property or any interest therein, the transferee acquires, as to such share or interest, and so far as is necessary to give effect to the transfer, the transferor's right to joint possession or other common or part enjoyment of the property, and to enforce a partition of the same, but subject to the conditions and liabilities affecting, at the date of the transfer, the share or interest so transferred.

Transfer by  
one co-owner.

Where the transferee of a share of a dwelling house belonging to an undivided family is not a member of the family, nothing in this section shall be deemed to entitle him to joint possession or other common or part enjoyment of the house.

45. Where immovable property is transferred for consideration to two or more persons, and such consideration is paid out of a fund belonging to them in common, they are, in the absence of a contract to the contrary, respectively, entitled to interests in such property identical, as nearly as may be, with the interests to which they were respectively entitled in the fund; and, where such consideration is paid out of separate funds belonging to them respectively, they are, in the absence of a contract to the contrary, respectively entitled to interests in such property in proportion to the shares of the consideration which they respectively advanced.

Joint trans-  
fer for  
consideration.

In the absence of evidence as to the interests in the fund to which they were respectively entitled, or as to the shares which they respectively advanced, such persons shall be presumed to be equally interested in the property.

Transfer for consideration by persons having distinct interests.

**46.** Where immovable property is transferred for consideration by persons having distinct interests therein, the transferors are, in the absence of a contract to the contrary, entitled to share in the consideration equally, where their interests in the property were of equal value, and, where such interests were of unequal value, proportionately to the value of their respective interests.

### *Illustrations.*

(a) A, owning a moiety, and B and C, each a quarter share, of mauza Sultanpur, exchange an eighth share of that mauza for a quarter share of mauza Lalpura. There being no agreement to the contrary, A is entitled to an eighth share in Lalpura, and B and C each to a sixteenth share in that mauza.

(b) A, being entitled to a life-interest in Mauza Atrali and B and C to the reversion, sell the mauza for Rs. 1,000. A's life-interest is ascertained to be worth Rs. 600, the reversion Rs. 400. A is entitled to receive Rs. 600 out of the purchase money, B and C to receive Rs. 400.

Transfer by co-owners of share in common property.

**47.** Where several co-owners of immovable property transfer a share therein without specifying that the transfer is to take effect on any particular share or shares of the transferors, the transfer, as among such transferors, takes effect on such shares equally where the shares were equal, and, where they were unequal, proportionately to the extent of such shares.

### *Illustration.*

A, the owner of an eight anna share, and B and C, each the owner of a four-anna share, in mauza Sultanpur, transfer a two-anna share in the mauza to D, without specifying from which of their several shares the transfer is made. To give effect to the transfer one-anna share is taken from the share of A, and half an anna share from each of the shares of B and C.

Priority of rights created by transfer.

**48.** Where a person purports to create by transfer at different times rights in or over the same immovable property, and such rights cannot all exist or be exercised to their full extent together, each later created right shall, in the absence of a special contract or reservation binding the earlier transferees, be subject to the rights previously created.

Transferee's right under policy.

**49.** Where immovable property is transferred for consideration, and such property or any part thereof is at the date of the transfer insured against loss or damage by fire, the transferee, in case of such loss, or damage may, in the absence of a contract to the contrary, require any

money which the transferor actually receives under the policy, or so much thereof as may be necessary, to be applied in reinstating the property.

50. No person shall be chargeable with any rents or profits of any immovable property, which he has in good faith paid or delivered to any person of whom he in good faith held such property, notwithstanding it may afterwards appear that the person to whom such payment or delivery was made had no right to receive such rents or profits.

Rent *bona fide* paid to holder under defective title.

### *Illustration.*

A lets a field to B at a rent of Rs. 50, and then transfers the field to C. B, having no notice of the transfer, in good faith pays the rent to A. B is not chargeable with the rent so paid.

51. When the transferee of immovable property makes any improvement on the property, believing in good faith that he is absolutely entitled thereto, and he is subsequently evicted therefrom by any person having a better title, the transferee has a right to require the person causing the eviction either to have the value of the improvement estimated and paid or secured to the transferee, or to sell his interest in the property to the transferee at the then market-value thereof irrespective of the value of such improvement.

Improvements made by *bona fide* holders under defective titles.

The amount to be paid or secured in respect of such improvement shall be the estimated value thereof at the time of the eviction.

When, under the circumstances aforesaid, the transferee has planted or sown on the property crops which are growing when he is evicted therefrom, he is entitled to such crops and to free ingress and egress to gather and carry them.

52. During the active prosecution in any Court having authority in Mysore, of a contentious suit or proceeding in which any right to immovable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the rights of any other party thereto under any decree or order which may be made therein, except under the authority of the Court and on such terms as it may impose.

Transfer of property pending suit relating thereto.

53. Every transfer of immovable property, made with intent to defraud prior or subsequent transferees thereof for consideration, or co-owners or other persons

Fraudulent transfer.



having an interest in such property, or to defeat or delay the creditors of the transferor, is voidable at the option of any person so defrauded, defeated or delayed.

Where the effect of any transfer of immovable property is to defraud, defeat or delay any such person, and such transfer is made gratuitously or for a grossly inadequate consideration, the transfer may be presumed to have been made with such intent as aforesaid.

Nothing contained in this section shall impair the rights of any transferee in good faith and for consideration.

### CHAPTER III.

#### OF SALES OF IMMOVABLE PROPERTY.

“Sale”  
defined.

54. “Sale” is a transfer of ownership in exchange for a price paid or promised or part-paid and part promised.

Sale how  
made.

Such transfer, in the case of tangible immovable property of the value of one hundred rupees and upwards, or in the case of reversion or other intangible thing, can be made only by a registered instrument.

In the case of tangible immovable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.

Delivery of tangible immovable property takes place when the seller places the buyer or such person as he directs, in possession of the property.

Contract for  
sale.

A contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property.

Rights and  
liabilities of  
buyer and  
seller.

55. In the absence of a contract to the contrary, the buyer and the seller of immovable property respectively are subject to the liabilities, and have the rights, mentioned in the rules next following, or such of them as are applicable to the property sold:—

(1) The seller is bound—

(a) to disclose to the buyer any material defect in the property of which the seller is, and the buyer is not, aware, and which the buyer could not with ordinary care discover;

(b) to produce to the buyer on his request for examination all documents of title relating to the property which are in the seller's possession or power ;

(c) to answer to the best of his information all relevant questions put to him by the buyer in respect to the property or the title thereto ;

(d) on payment or tender of the amount due in respect of the price, to execute a proper conveyance of the property when the buyer tenders it to him for execution at a proper time and place ;

(e) between the date of the contract of sale and the delivery of the property, to take as much care of the property and all documents of title relating thereto which are in his possession as an owner of ordinary prudence would take of such property and documents ;

(f) to give, on being so required, the buyer, or such person as he directs, such possession of the property as its nature admits ;

(g) to pay all public charges and rent accrued due in respect of the property up to the date of the sale, and the interest on all incumbrances on such property due on such date, and, except where the property is sold subject to incumbrances, to discharge all incumbrances on the property then existing.

(2) The seller shall be deemed to contract with the buyer that the interest which the seller professes to transfer to the buyer subsists and that he has power to transfer the same :

Provided that, where the sale is made by a person in a fiduciary character, he shall be deemed to contract with the buyer that the seller has done no act whereby the property is incumbered or whereby he is hindered from transferring it.

The benefit of the contract mentioned in this rule shall be annexed to, and shall go with, the interest of the transferee as such, and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

(3) Where the whole of the purchase-money has been paid to the seller, he is also bound to deliver to the buyer all documents of title relating to the property which are in the seller's possession or power :

Provided that, (a) where the seller retains any part of the property comprised in such documents, he is entitled to retain them all, and, (b) where the whole of such property

is sold to different buyers, the buyer of the lot of greatest value is entitled to such documents. But in case (a) the seller, and in case (b) the buyer of the lot of greatest value, is bound, upon every reasonable request by the buyer, or by any of the other buyers, as the case may be, and at the cost of the person making the request, to produce the said documents and furnish such true copies thereof or extracts therefrom as he may require; and in the meantime, the seller or the buyer of the lot of greatest value, as the case may be, shall keep the said documents safe, uncanceled and undefaced, unless prevented from so doing by fire or other inevitable accident.

(4) The seller is entitled—

- (a) to the rents and profits of the property till the ownership thereof pass to the buyer;
- (b) where the ownership of the property has passed to the buyer before payment of the whole of the purchase-money, to a charge upon the property in the hands of the buyer for the amount of the purchase money, or any part thereof remaining unpaid, and for interest on such amount or part.

(5) The buyer is bound—

- (a) to disclose to the seller any fact as to the nature or extent of the seller's interest in the property of which the buyer is aware but of which he has reason to believe that the seller is not aware, and which materially increases the value of such interest;
- (b) to pay or tender, at the time and place of completing the sale, the purchase-money to the seller or such person as he directs: provided that, where the property is sold free from incumbrances, the buyer may retain out of the purchase-money the amount of any incumbrances on the property existing at the date of the sale, and shall pay the amount so retained to the persons entitled thereto;
- (c) where the ownership of the property has passed to the buyer, to bear any loss arising from the destruction, injury or decrease in value of the property not caused by the seller;

- (d) where the ownership of the property has passed to the buyer as between himself and the seller, to pay all public charges and rent which may become payable in respect of the property, the principal moneys due on any incumbrances subject to which the property is sold, and the interest thereon afterwards accruing due.
- (6) The buyer is entitled—
- (a) where the ownership of the property has passed to him, to the benefit of any improvement in, or increase in value of, the property, and to the rents and profits thereof.
- (b) unless he has improperly declined to accept delivery of the property, to a charge on the property, as against the seller and all persons claiming under him with notice of the payment, to the extent of the seller's interest in the property, for the amount of any purchase-money properly paid by the buyer in anticipation of the delivery and for interest on such amount; and, when he properly declines to accept the delivery, also for the earnest (if any) and for the costs (if any) awarded to him of a suit to compel specific performance of the contract or to obtain a decree for its rescission.

An omission to make such disclosures as are mentioned in this section, paragraph (1), clause (a), and paragraph (5), clause (a), is fraudulent.

**56.** Where several properties are subject to a common charge and one of the properties is sold, the buyer is as against the seller, in the absence of a contract to the contrary, entitled to have the charge satisfied out of the other properties, so far as such properties will extend.

Sale of one of several properties subject to common charge.

### *Discharge of Incumbrances on Sale.*

**57.** (a) Where immovable property subject to any incumbrance, whether immediately payable or not, is sold by the Court or in execution of a decree, or out of Court, the Court may, if it thinks fit, on the application of any party to the sale, direct or allow payment into Court,—

Provision by Court for incumbrance and sale free therefrom.

- (1) in the case of an annual or monthly sum charged on the property, or of a capital sum charged

on a determinable interest in the property,—of such amount as, when invested in securities authorized by the Government, the Court considers will be sufficient, by means of the interest thereof, to keep down or otherwise provide for that charge, and

- (2) in any other case of a capital sum charged on the property,—of the amount sufficient to meet the incumbrance and any interest due thereon.

But in either case there shall also be paid into Court such additional amount as the Court considers will be sufficient to meet the contingency of further costs, expenses and interest, and any other contingency except depreciation of investments not exceeding one-tenth part of the original amount to be paid in, unless the Court for special reasons (which it shall record) thinks fit to require a larger additional amount.

(b) Thereupon the Court may, if it thinks fit, and after notice to the incumbrancer, unless the Court, for reasons to be recorded in writing, thinks fit to dispense with such notice, declare the property to be freed from the incumbrance, and make any order for conveyance, or vesting order, proper for giving effect to the sale, and give directions for the retention and investment of the money in Court.

(c) After notice served on the persons interested in or entitled to the money or fund in Court, the Court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof.

(d) An appeal shall lie from any declaration, order or direction under this section as if the same were a decree.

(e) In this section "Court" means (1) the Court of a District Judge within the local limits of whose jurisdiction the property or any part thereof is situate, (2) any other Court which the Government may, from time to time, by notification in the official Gazette, declare to be competent to exercise the jurisdiction conferred by this section.

## CHAPTER IV.

## OF MORTGAGES OF IMMOVABLE PROPERTY AND CHARGES.

58. (a) A mortgage is the transfer of an interest in specific immovable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability.

“Mortgage”  
“mortgagor”  
“mortgagee”  
“mortgage-money” and  
“mortgage deed”  
defined.

The transferor is called a mortgagor, the transferee a mortgagee; the principal money and interest of which payment is secured for the time being are called the mortgage-money, and the instrument (if any) by which the transfer is effected is called a mortgage-deed.

(b) Where, without delivering possession of the mortgaged property, the mortgagor binds himself personally to pay the mortgage-money, and agrees, expressly or impliedly, that, in the event of his failing to pay according to his contract, the mortgagee shall have a right to cause the mortgaged property to be sold and the proceeds of sale to be applied, so far as may be necessary, in payment of the mortgage-money, the transaction is called a simple mortgage and the mortgagee a simple mortgagee.

Simple mortgage.

(c) Where the mortgagor ostensibly sells the mortgaged property—

Mortgage by conditional sale.

on condition that on default of payment of the mortgage-money on a certain date the sale shall become absolute, or

on condition that on such payment being made the sale shall become void, or

on condition that on such payment being made the buyer shall transfer the property to the seller,

the transaction is called a mortgage by conditional sale and the mortgagee a mortgagee by conditional sale.

(d). Where the mortgagor delivers possession of the mortgaged property to the mortgagee, and authorizes him to retain such possession until payment of the mortgage-money, and to receive the rents and profits accruing from the property and to appropriate them in lieu of interest, or in payment of the principal-money, or partly in lieu of interest and partly in payment of the principal-money, the transaction is called an usufructuary mortgage and the mortgagee an usufructuary mortgagee.

Usufructuary mortgage.

English  
mortgage.

(e) Where the mortgagor binds himself to re-pay the mortgage-money on a certain date, and transfers the mortgaged property absolutely to the mortgagee, but subject to a proviso that he will re-transfer it to the mortgagor upon payment of the mortgage-money as agreed, the transaction is called an English mortgage.

Mortgage  
when to be  
by assurance.

59. A mortgage can be effected only by a registered instrument.

(2) Notwithstanding anything contained in sub-section (1) of this section, a mortgage of immovable property in favour of a Bank may, in any area to which this provision may be extended by Government by notification in the Official Gazette, be effected by delivery to the Bank or its authorized agent of documents of title relating to such property accompanied by a memorandum in writing signed by the debtor specifying such property and the amount of credit given or agreed to be given by the Bank on the security of such property, provided that a copy of such memorandum under the seal of the Bank and the signature of its authorized agent is delivered or transmitted by registered post within ten days of the delivery to the Bank as aforesaid of the memorandum to every registering officer within whose district or sub-district the whole or any portion of such property is situated, or, where a special registering officer is appointed or designated by Government in this behalf, to such registering officer, and such registering officer shall thereupon file the copy in his Book No. 1.

*Explanation.*—"Bank" in this sub-section means an association or company with limited liability formed principally for the purpose of engaging on the business of banking, and registered under the provisions of the law relating to companies for the time being in force.

### *Rights and Liabilities of Mortgagor.*

Right of  
mortgagor to  
redeem.

60. At any time after the principal-money has become payable, the mortgagor has a right, on payment or tender, at a proper time and place, of the mortgage-money, or on deposit in Court as hereinafter provided to require the mortgagee (a) to deliver the mortgage-deed, if any, to the mortgagor, (b) where the mortgagee is in possession of the mortgaged property, to deliver possession thereof to the mortgagor, and (c) at the cost of the mortgagor either to retransfer the mortgaged property to him

or to such third person as he may direct, or to execute and (where the mortgage has been effected by a registered instrument) to have registered an acknowledgment in writing that any right in derogation of his interest transferred to the mortgagee has been extinguished :

Provided that the right conferred by this section has not been extinguished by act of the parties or by order of a Court.

The right conferred by this section is called a right to redeem and a suit to enforce it is called a suit for redemption.

Nothing in this section shall be deemed to render invalid any provision to the effect that, if the time fixed for payment of the principal money has been allowed to pass or no such time has been fixed, the mortgagee shall be entitled to reasonable notice before payment or tender of such money.

Redemption of portion of mortgaged property.

Nothing in this section shall entitle a person interested in a share only of the mortgaged property to redeem his own share only, on payment of a proportionate part of the amount remaining due on the mortgage, except where a mortgagee, or, if there are more mortgagees than one, all such mortgagees has or have acquired, in whole or in part, the share of a mortgagor.

**61.** A mortgagor seeking to redeem any one mortgage shall, in the absence of a contract to the contrary, be entitled to do so without paying any money due under any separate mortgage made by him, or by any person through whom he claims.

Right to redeem one of several mortgages.

**62.** In the case of a usufructuary mortgage, the mortgagor has a right to recover possession of the property,—

Right of usufructuary mortgagor to recover possession.

(a) where the mortgagee is authorized to pay himself the mortgage money from the rents and profits of the property,—when such money is paid.

(b) Where the mortgagee is authorized to pay himself from such rents and profits the interest of the principal money,—when the term (if any), prescribed for the payment of the mortgage-money has expired and the mortgagor pays or tenders to the mortgagee the principal money or deposits it in Court as hereinafter provided.

**63.** Where mortgaged property in possession of the mortgagee has, during the continuance of the mortgage,

Accession to mortgaged property.



received any accession, the mortgagor, upon redemption, shall, in the absence of a contract to the contrary, be entitled as against the mortgagee to such accession.

Accession  
acquired in  
virtue of  
transferred  
ownership.

Where such accession has been acquired at the expense of the mortgagee, and is capable of separate possession or enjoyment without detriment to the principal property, the mortgagor desiring to take the accession must pay to the mortgagee the expense of acquiring it. If such separate possession or enjoyment is not possible, the accession must be delivered with the property, the mortgagor being liable, in the case of an acquisition necessary to preserve the property from destruction, forfeiture or sale, or made with his assent, to pay the proper cost thereof, as an addition to the principal money, at the same rate of interest.

In the case last mentioned the profits, if any, arising from the accession shall be credited to the mortgagor.

Where the mortgage is usufructuary and the accession has been acquired at the expense of the mortgagee, the profits, if any, arising from the accession shall, in the absence of a contract to the contrary, be set off against interest, if any, payable on the money so expended.

Renewal of  
mortgaged  
lease.

**64.** Where the mortgaged property is a lease for a term of years, and the mortgagee obtains a renewal of the lease, the mortgagor, upon redemption, shall, in the absence of a contract by him to the contrary, have the benefit of the new lease.

Implied con-  
tracts by  
mortgagor.

**65.** In the absence of a contract to the contrary, the mortgagor shall be deemed to contract with the mortgagee—

- (a) that the interest which the mortgagor professes to transfer to the mortgagee subsists, and that the mortgagor has power to transfer the same ;
- (b) that the mortgagor will defend, or, if the mortgagee be in possession of the mortgaged property, enable him to defend, the mortgagor's title thereto ;
- (c) that the mortgagor will, so long as the mortgagee is not in possession of the mortgaged property, pay all public charges accruing due in respect of the property ;
- (d) and, where the mortgaged property is a lease for a term of years, that the rent payable under the lease, the conditions contained therein, and the contracts binding on the lessee have

been paid, performed and observed down to the commencement of the mortgage; and that the mortgagor will, so long as the security exists and the mortgagee is not in possession of the mortgaged property, pay the rent reserved by the lease, or, if the lease be renewed, the renewed lease, perform the conditions contained therein and observe the contracts binding on the lessee, and indemnify the mortgagee against all claims sustained by reason of the non-payment of the said rent or the non-performance or non-observance of the said conditions and contracts;

- (e) and, where the mortgage is a second or subsequent incumbrance on the property, that the mortgagor will pay the interest from time to time accruing due on each prior incumbrance as and when it becomes due, and will at the proper time discharge the principal money due on such prior incumbrance.

Nothing in clause (c), in or clause (d), so far as it relates to the payment of future rent, applies in the case of an usufructuary mortgage.

The benefit of the contracts mentioned in this section shall be annexed to and shall go with the interest of the mortgagee as such, and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

**66.** A mortgagor in possession of the mortgaged property is not liable to the mortgagee for allowing the property to deteriorate; but he must not commit any act which is destructive or permanently injurious thereto, if the security is insufficient or will be rendered insufficient by such act.

Waste by mortgagor in possession.

*Explanation.*—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

### *Rights and Liabilities of Mortgagee.*

**67.** In the absence of a contract to the contrary, the mortgagee has at any time after the mortgage-money has become payable to him, and before a decree has been made for the redemption of the mortgaged property, or the

Right to foreclosure or sale.

mortgage-money has been paid or deposited as hereinafter provided, a right to obtain from the Court an order that the mortgagor shall be absolutely debarred of his right to redeem the property, or an order that the property be sold.

A suit to obtain an order that a mortgagor shall be absolutely debarred of his right to redeem the mortgaged property is called a suit for foreclosure.

Nothing in this section shall be deemed—

- (a) to authorize a simple mortgagee as such to institute a suit for foreclosure, or an usufructuary mortgagee as such to institute a suit for foreclosure or sale, where he is authorized to appropriate the rents and profits in payment of the principal money or partly in lieu of interest and partly in payment of the principal money, or a mortgagee by conditional sale as such to institute a suit for sale; or
- (b) to authorize a mortgagor who holds the mortgagee's rights as his trustee or legal representative, and who may sue for a sale of the property, to institute a suit for foreclosure; or
- (c) to authorize the mortgagee of a railway, canal or other work in the maintenance of which the public are interested, to institute a suit for foreclosure or sale; or
- (d) to authorize a person interested in part only of the mortgage-money to institute a suit relating only to a corresponding part of the mortgaged property, unless the mortgagees have, with the consent of the mortgagor, severed their interests under the mortgage.

Right to sue  
for mortgage-  
money.

**68.** The mortgagee has a right to sue the mortgagor for the mortgage-money in the following cases only:—

- (a) where the mortgagor binds himself to repay the same;
- (b) where the mortgagee is deprived of the whole or part of his security by or in consequence of the wrongful act or default of the mortgagor;
- (c) where, the mortgagee being entitled to possession of the property, the mortgagor fails to deliver the same to him or to secure the possession thereof to him without disturbance by the mortgagor or any other person,

Where, by any cause other than the wrongful act or default of the mortgagor or mortgagee, the mortgaged property has been wholly or partially destroyed, or the security is rendered insufficient as defined in section 66, the mortgagee may require the mortgagor to give him within a reasonable time another sufficient security for his debt, and, if the mortgagor fails so to do, may sue him for the mortgage-money.

70. If, after the date of a mortgage, any accession is made to the mortgaged property, the mortgagee in the absence of a contract to the contrary, shall, for the purposes of the security, be entitled to such accession.

Accession to mortgaged property.

### *Illustrations.*

(a) A mortgages to B a certain field bordering on a river. The field is increased by alluvion. For the purposes of his security, B is entitled to the increase.

(b) A mortgages a certain plot of building land to B and afterwards erects a house on the plot. For the purposes of his security B is entitled to the house as well as the plot.

71. When the mortgaged property is a lease for a term of years, and the mortgagor obtains a renewal of the lease, the mortgagee, in the absence of a contract to the contrary, shall for the purposes of the security, be entitled to the new lease.

Renewal of mortgaged lease.

72. When, during the continuance of the mortgage, the mortgagee takes possession of the mortgaged property, he may spend such money as is necessary—

Rights of mortgagee in possession.

- (a) for the due management of the property and the collection of the rents and profits thereof;
- (b) for its preservation from destruction, forfeiture or sale;
- (c) for supporting the mortgagor's title to the property;
- (d) for making his own title thereto good against the mortgagor; and
- (e) when the mortgaged property is a renewable leasehold, for the renewal of the lease;

and may, in the absence of contract to the contrary, add such money to the principal money, at the rate of interest payable on the principal, and, where no such rate is fixed, at the rate of nine per cent per annum.

Where the property is by its nature insurable, the mortgagee may also, in the absence of a contract to the

contrary, insure and keep insured against loss or damage by fire the whole or any part of such property ; and the premiums paid for any such insurance shall be a charge on the mortgaged property, in addition to the principal money, with the same priority and with interest at the same rate. But the amount of such insurance shall not exceed the amount specified in this behalf in the mortgage deed or (if no such amount is therein specified) two-thirds of the amount that would be required in case of total destruction to reinstate the property insured.

Nothing in this section shall be deemed to authorize the mortgagee to insure when an insurance of the property is kept up by or on behalf of the mortgagor to the amount in which the mortgagee is hereby authorized to insure.

Charge on  
proceeds of  
revenue sale.

**73.** Where mortgaged property is sold through failure to pay arrears of revenue or rent due in respect thereof, the mortgagee has a charge on the surplus, if any, of the proceeds, after payment thereout of the said arrears, for the amount remaining due on the mortgage, unless the sale has been occasioned by some default on his part.

Right of sub-  
sequent mort-  
gagee to pay  
off prior  
mortgagee.

**74.** Any second or other subsequent mortgagee may, at any time after the amount due on the next prior mortgage has become payable, tender such amount to the next prior mortgagee, and such mortgagee is bound to accept such tender and to give a receipt for such amount ; and (subject to the provisions of the law for the time being in force regulating the registration of documents) the subsequent mortgagee shall, on obtaining such receipt, acquire, in respect of the property, all the rights and powers of the mortgagee, as such, to whom he has made such tender.

Rights of  
mesne mort-  
gagee against  
prior and  
subsequent  
mortgagees.

**75.** Every second or other subsequent mortgagee has, so far as regards redemption, foreclosure and sale of the mortgaged property, the same rights against the prior mortgagee or mortgagees as his mortgagor has against prior mortgagee or mortgagees, and the same rights against the subsequent mortgagees (if any) as he has against his mortgagor.

Liabilities of  
mortgagee in  
possession.

**76.** When, during the continuance of the mortgage, the mortgagee takes possession of the mortgaged property,—

- (a) he must manage the property as a person of ordinary prudence would manage it if it were his own ;
- (b) he must use his best endeavours to collect the rents and profits thereof ;

- (c) he must, in the absence of a contract to the contrary, out of the income of the property, pay the Government revenue, and all other charges of a public nature accruing due in respect thereof during such possession and any arrears of rent in default of payment of which the property may be summarily sold ;
- (d) he must, in the absence of a contract to the contrary, make such necessary repairs of the property as he can pay for out of the rents and profits thereof after deducting from such rents and profits the payment mentioned in clause (c) and the interest on the principal money ;
- (e) he must not commit any act which is destructive or permanently injurious to the property ;
- (f) where he has insured the whole or any part of the property against loss or damage by fire, he must, in case of such loss or damage, apply any money which he actually receives under the policy, or so much thereof as may be necessary, in reinstating the property, or, if the mortgagor so directs, in reduction or discharge of the mortgage-money ;
- (g) he must keep clear, full and accurate accounts of all sums received and spent by him as mortgagee, and at any time during the continuance of the mortgage, give the mortgagor, at his request and cost, true copies of such accounts and of the vouchers by which they are supported ;
- (h) his receipts from the mortgaged property, or, where such property is personally occupied by him, a fair occupation-rent in respect thereof, shall, after deducting the expenses mentioned in clauses (c) and (d), and interest thereon, be debited against him in reduction of the amount (if any) from time to time due to him on account of interest on the principal money and so far as such receipts exceed any interest due, in reduction or discharge of the principal money ; the surplus, if any, shall be paid to the mortgagor ;

(i) When the mortgagor tenders, or deposits in manner hereinafter provided, the amount for the time being due on the mortgage, the mortgagee must, notwithstanding the provisions in the other clauses of this section, account for his gross receipts from the mortgaged property from the date of the tender or from the earliest time when he could take such amount out of Court, as the case may be.

Loss occasioned by his default.

If the mortgagee fail to perform any of the duties imposed upon him by this section, he may, when accounts are taken in pursuance of a decree made under Order XXXIV of the Code of Civil Procedure, be debited with the loss, if any, occasioned by such failure.

Receipts in lieu of interest.

77. Nothing in section 76, clauses (b), (d), (g) and (h), applies to cases where there is a contract between the mortgagee and the mortgagor that the receipts from the mortgaged property shall, so long as the mortgagee is in possession of the property, be taken in lieu of interest on the principal money, or in lieu of such interest and defined portions of the principal.

### *Priority.*

Postponement of prior mortgagee

78. Where through the fraud, misrepresentation or gross neglect of a prior mortgagee, another person has been induced to advance money on the security of the mortgaged property, the prior mortgagee shall be postponed to the subsequent mortgagee.

Mortgage to secure uncertain amount when maximum is expressed.

79. If a mortgage made to secure future advances, the performance of an engagement or the balance of a running account, expresses the maximum to be secured thereby, a subsequent mortgage of the same property shall, if made with notice of the prior mortgage, be postponed to the prior mortgage in respect of all advances or debits not exceeding the maximum though made or allowed with notice of the subsequent mortgage.

### *Illustration.*

A mortgages Sultanpur to his bankers, B & Co., to secure the balance of his account with them to the extent of Rs. 10,000. A then mortgages Sultanpur to C, to secure Rs. 10,000 C having notice of the mortgage to B & Co., and C gives notice to B & Co., of the second mortgage. At the date of the second mortgage, the balance due to B & Co., does not exceed Rs. 5,000. B & Co., subsequently advance to A sums making the balance of the account against him exceed the sum of Rs. 10,000. B & Co., are entitled to the extent of Rs. 10,000 to priority over C.

80. No mortgagee paying off a prior mortgage, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his original security. And, except in the case provided for by section 79, no mortgagee making a subsequent advance to the mortgagor, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his security for such subsequent advance.

Tacking  
abolished.

*Marshalling and Contribution.*

81. (1) If the owner of two or more properties mortgages more than one of them to one person and then mortgages to another person one or more but not all of the properties already mortgaged, the second mortgagee is, in the absence of a contract to the contrary, entitled to have the debt of the first mortgagee satisfied out of the property or properties not mortgaged to the second mortgagee so far as such property or properties will extend, but not so as to prejudice the rights of the first mortgagee or of any other person having acquired for valuable consideration an interest in any of the properties mortgaged.

Marshalling  
securities.

(2) The benefit of sub-section (1) applies *mutatis mutandis* to a person who purchases some of several properties previously mortgaged to another person.

82. Where several properties, whether of one or several owners, are mortgaged to secure one debt, such properties are, in the absence of a contract to the contrary, liable to contribute rateably to the debt secured by the mortgagee, after deducting from the value of each property the amount of any other incumbrance to which it is subject at the date of the mortgage.

Contribution  
to mortgage  
debt.

Where, of two properties belonging to the same owner, one is mortgaged to secure one debt and then both are mortgaged to secure another debt, and the former debt is paid out of the former property, each property is, in the absence of a contract to the contrary, liable to contribute rateably to the latter debt after deducting the amount of the former debt from the value of the property out of which it has been paid.

Nothing in this section applies to a property liable under section 81 to the claim of the second mortgagee or subsequent purchaser.



*Deposit in Court.*

Power to deposit in Court money due on mortgage.

**83.** At any time after the principal money has become payable and before a suit for redemption of the mortgaged property is barred, the mortgagor, or any other person entitled to institute such suit, may deposit, in any Court in which he might have instituted such suit, to the account of the mortgagee, the amount remaining due on the mortgage.

Right to money deposited by mortgagor.

The Court shall thereupon cause written notice of the deposit to be served on the mortgagee and the mortgagee may, on presenting a petition (verified in manner prescribed by law for the verification of plaints) stating the amount then due on the mortgage, and his willingness to accept the money so deposited in full discharge of such amount, and on depositing in the same Court the mortgage-deed if then in his possession or power, apply for and receive the money, and the mortgage-deed so deposited shall be delivered to the mortgagor or such other person as aforesaid.

Cessation of interest.

**84.** When the mortgagor or such other person as aforesaid has tendered or deposited in Court under section 83 the amount remaining due on the mortgage, interest on the principal money shall cease from the date of the tender or as soon as the mortgagor or such other person as aforesaid has done all that has to be done by him to enable the mortgagee to take such amount out of Court, as the case may be.

Nothing in this section or in section 83 shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage money.

*Redemption.*

Who may sue for redemption.

**91.** Besides the mortgagor, any of the following persons may redeem, or institute a suit for redemption of the mortgaged property :—

- (a) any person (other than the mortgagee of the interest sought to be redeemed) having any interest in or charge upon the property or any part thereof ;
- (b) any person having any interest in or charge upon the right to redeem the property ;
- (c) any surety for the payment of the mortgage-debt or any part thereof ;

- (d) the guardian of the property of a minor mortgagor on behalf of such minor ;
- (e) the committee or other legal curator of a lunatic or idiot mortgagor on behalf of such lunatic or idiot ;
- (f) the judgment-creditor of the mortgagor, when he has obtained execution by attachment of the mortgagor's interest in the property ;
- (g) a creditor of the mortgagor who has, in a suit for the administration of his estate, obtained a decree for sale of the mortgaged property ; and
- (h) any other person who, in any other manner, may become entitled to any interest in the property or any part thereof.

95. Where one of several mortgagors redeems the mortgaged property he acquires all the rights and privileges of the mortgagee, in the share of each of the other co-mortgagors in the property for that co-mortgagor's proportion of the mortgage money and other expenses properly incurred in so redeeming and where he obtains possession of the property also, of the expenses properly incurred in so obtaining possession.

Charge of one of several co-mortgagors who redeems.

### *Anomalous Mortgages.*

98. In the case of a mortgage not being a simple mortgage, a mortgage by conditional sale, an usufructuary mortgage or an English mortgage, or a combination of the first and third or the second and third, of such forms, the rights and liabilities of the parties shall be determined by their contract as evidenced in the mortgage-deed, and, so far as such contract does not extend, by local usage.

Mortgage not described in section 58, clauses (b), (c), (d) and (e).

### *Charges.*

100. Where immovable property of one person is, by act of parties or operation of law, made security for the payment of money to another, and the transaction does not amount to a mortgage, the latter person is said to have a charge on the property ; and all the provisions hereinbefore contained as to a mortgagor shall, so far as may be, apply to the owner of such property, and the provisions of sections 81 and 82 shall, so far as may be, apply to the person having such charge.

Charges.

Nothing in this section applies to the charge of a trustee on the trust-property for expenses properly incurred in the execution of his trust.

Extinguish-  
ment of  
charges.

**101.** Where the owner of a charge or other incumbrance on immovable property is or becomes absolutely entitled to that property, the charge or incumbrance shall be extinguished, unless he declares, by express words or necessary implication, that it shall continue to subsist, or such continuance would be for his benefit.

*Notice and Tender.*

Service or  
tender on or  
to agent.

**102.** Where the person on or to whom any notice or tender is to be served or made under this Chapter does not reside in the district in which the mortgaged property or some part thereof is situate, service or tender on or to an agent holding a general power of attorney from such person or otherwise duly authorized to accept such service or tender shall be deemed sufficient.

Where the person or agent on whom such notice should be served cannot be found in the said district, or is unknown to the person required to serve the notice, the latter person may apply to any Court in which a suit might be brought for redemption of the mortgaged property, and such Court shall direct in what manner such notice shall be served, and any notice served in compliance with such direction shall be deemed sufficient.

Where the person or agent to whom such tender should be made cannot be found within the said district, or is unknown to the person desiring to make the tender, the latter person may deposit in such Court as last aforesaid the amount sought to be tendered, and such deposit shall have the effect of a tender of such amount.

Notice, etc.,  
to or by  
person in-  
competent  
to contract.

**103.** Where, under the provisions of this Chapter, a notice is to be served on or by, or a tender or deposit made or accepted or taken out of Court by, any person incompetent to contract, such notice may be served on or by, and such tender or deposit made, accepted or taken by, the legal curator of the property of such person; but where there is no such curator, and it is requisite or desirable in the interests of such person that a notice should be served or a tender or deposit made under the provisions of this Chapter, application may be made to any Court in which a suit might be brought for the redemption of the mortgage to appoint a guardian *ad litem* for the purpose of serving or receiving service of such notice, or making or accepting such tender, or making or taking out of Court such deposit, and for the performance of all consequential acts which

could or ought to be done by such person if he were competent to contract; and the provisions of Order XXXII of the Code of Civil Procedure shall, so far as may be, apply to such application and to the parties thereto and to the guardian appointed thereunder.

**104.** The High Court may, from time to time, make rules consistent with this Act for carrying out, in itself and in the Courts of Civil Judicature subject to its superintendence, the provisions contained in this Chapter. Power to make rules.

## CHAPTER V.

### OF LEASES OF IMMOVABLE PROPERTY.

**105.** A lease of immovable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms. Lease defined.

The transferor is called the lessor, the transferee is called the lessee, the price is called the premium, and the money, share, service or other thing to be so rendered is called the rent. Lessor, lessee, premium and rent defined.

**106.** In the absence of a contract or local law or usage to the contrary, a lease of immovable property for agricultural or manufacturing purposes shall be deemed to be a lease from year to year, terminable, on the part of either lessor or lessee, by six months' notice expiring with the end of a year of the tenancy; and a lease of immovable property for any other purpose shall be deemed to be a lease from month to month, terminable, on the part of either lessor or lessee, by fifteen days' notice expiring with the end of a month of the tenancy. Duration of certain leases in absence of written contract or local usage.

Every notice under this section must be in writing signed by or on behalf of the person giving it, and tendered or delivered either personally to the party who is intended to be bound by it or to one of his family or servants at his residence, or (if such tender or delivery is not practicable) affixed to a conspicuous part of the property.

**107.** Subject to the proviso to clause (d) of section 17 of the Mysore Registration Act, 1903, a lease of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument. Leases how made.

All other leases of immovable property may be made either by a registered instrument or by oral agreement accompanied by delivery of possession :

Provided that the Government may, from time to time, by notification in the Official Gazette, direct that leases of immovable property, other than leases from year to year or for any term exceeding one year, or reserving a yearly rent, or any class of such leases, may be made by unregistered instrument or by oral agreement without delivery of possession.

Rights and liabilities of lessor and lessee.

108. In the absence of a contract or local usage to the contrary, the lessor and the lessee of immovable property as against one another, respectively, possess the rights and are subject to the liabilities mentioned in the rules next following or such of them as are applicable to the property leased :—

*(A) Rights and Liabilities of the Lessor.*

(a) The lessor is bound to disclose to the lessee any material defect in the property, with reference to its intended use, of which the former is and the latter is not aware, and which the latter could not with ordinary care discover :

(b) the lessor is bound on the lessee's request to put him in possession of the property :

(c) the lessor shall be deemed to contract with the lessee that, if the latter pays the rent reserved by the lease and performs the contracts binding on the lessee, he may hold the property during the time limited by the lease without interruption.

The benefit of such contract shall be annexed to and go with the lessee's interest as such, and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

*(B) Rights and Liabilities of the Lessee.*

(d) If during the continuance of the lease any accession is made to the property, such accession (subject to the law relating to alluvion for the time being in force) shall be deemed to be comprised in the lease :

(e) if by fire, tempest or flood, or violence of an army or of a mob or other irresistible force, any material part of the property be wholly destroyed or rendered substantially and permanently unfit for the purposes for which it was let, the lease shall, at the option of the lessee, be void :

Provided that, if the injury be occasioned by the wrongful act or default of the lessee, he shall not be entitled to avail himself of the benefit of this provision :

(f) if the lessor neglects to make, within a reasonable time after notice, any repairs which he is bound to make to the property, the lessee may make the same himself, and deduct the expense of such repairs with interest from the rent, or otherwise recover it from the lessor :

(g) if the lessor neglects to make any payment which he is bound to make, and which if not made by him, is recoverable from the lessee or against the property, the lessee may make such payment himself, and deduct it with interest from the rent, or otherwise recover it from the lessor :

(h) the lessee may remove, at any time during the continuance of the lease, all things which he has attached to the earth : provided he leaves the property in the state in which he received it :

(i) when a lease of uncertain duration determines by any means except the fault of the lessee, he or his legal representative is entitled to all the crops planted or sown by the lessee and growing upon the property when the lease determines, and to free ingress and egress to gather and carry them :

(j) the lessee may transfer absolutely or by way of mortgage or sub-lease the whole or any part of his interest in the property, and any transferee of such interest or part may again transfer it. The lessee shall not, by reason only of such transfer, cease to be subject to any of the liabilities attaching to the lease :

nothing in this clause shall be deemed to authorize a tenant having an untransferable right of occupancy, the farmer of an estate in respect of which default has been made in paying revenue, or the lessee of an estate under the management of Government, to assign his interest as such tenant, farmer or lessee :

(k) the lessee is bound to disclose to the lessor any fact as to the nature or extent of the interest which the lessee is about to take, of which the lessor is, and the lessor is not, aware, and which materially increases the value of such interest :

(l) the lessee is bound to pay or tender, at the proper time and place, the premium or rent to the lessor or his agent in this behalf :

(*m*) the lessee is bound to keep, and on the termination of the lease to restore, the property in as good condition as it was in at the time when he was put in possession, subject only to the changes caused by reasonable wear and tear or irresistible force, and to allow the lessor and his agents, at all reasonable times during the term, to enter upon the property and inspect the condition thereof and, give or leave notice of any defect in such condition; and when such defect has been caused by any act or default on the part of the lessee, his servants or agents, he is bound to make it good within three months after such notice has been given or left :

(*n*) if the lessee becomes aware of any proceeding to recover the property or any part thereof, or of any encroachment made upon, or any interference with, the lessor's rights concerning such property, he is bound to give, with reasonable diligence, notice thereof to the lessor :

(*o*) the lessee may use the property and its products (if any) as a person of ordinary prudence would use them if they were his own ; but he must not use, or permit another to use, the property for a purpose other than that for which it was leased, or fell timber, pull down or damage buildings, work mines or quarries not open when the lease was granted, or commit any other act which is destructive or permanently injurious thereto :

(*p*) he must not, without the lessor's consent, erect on the property any permanent structure, except for agricultural purposes :

(*q*) on the determination of the lease, the lessee is bound to put the lessor into possession of the property.

Rights of  
lessor's  
transferee.

**109.** If the lessor transfers the property leased, or any part thereof, or any part of his interest therein, the transferee, in the absence of a contract to the contrary, shall possess all the rights, and, if the lessee so elects, be subject to all the liabilities, of the lessor as to the property or part transferred so long as he is the owner of it ; but the lessor shall not, by reason only of such transfer, cease to be subject to any of the liabilities imposed upon him by the lease, unless the lessee elects to treat the transferee as the person liable to him :

Provided that the transferee is not entitled to arrears of rent due before the transfer, and that, if the lessee, not having reason to believe that such transfer has been made, pays rent to the lessor, the lessee shall not be liable to pay such rent over again to the transferee.

The lessor, the transferee and the lessee may determine what proportion of the premium or rent reserved by the lease is payable in respect of the part so transferred, and in case they disagree, such determination may be made by any Court having jurisdiction to entertain a suit for the possession of the property leased.

**110.** Where the time limited by a lease of immovable property is expressed as commencing from a particular day, in computing that time such day shall be excluded. Where no day of commencement is named, the time so limited begins from the making of the lease.

Exclusion  
of day on  
which term  
commences.

Where the time so limited is a year or a number of years, in the absence of an express agreement to the contrary, the lease shall last during the whole anniversary of the day from which such time commences.

Duration of  
lease for a  
year.

Where the time so limited is expressed to be terminable before its expiration, and the lease omits to mention at whose option it is so terminable, the lessee, and not the lessor, shall have such option.

Option to  
determine  
lease.

**111.** A lease of immovable property determines —

Determina-  
tion of lease.

(a) by efflux of the time limited thereby :

(b) where such time is limited conditionally on the happening of some event—by the happening of such event :

(c) where the interest of the lessor in the property terminates on, or his power to dispose of the same extends only to, the happening of any event—by the happening of such event :

(d) in case the interests of the lessee and the lessor in the whole of the property become vested at the same time in one person in the same right :

(e) by express surrender ; that is to say, in case the lessee yields up his interest under the lease to the lessor, by mutual agreement between them :

(f) by implied surrender :

(g) by forfeiture ; that is to say, (1) in case the lessee breaks an express condition which provides that on breach thereof the lessor may re-enter or the lease shall become void ; or (2) in case the lessee renounces his character as such by setting up a title in a third person or by claiming title in himself ; and in either case the lessor or his transferee does some act showing his intention to determine the lease :



(*h*) on the expiration of a notice to determine the lease, or to quit, or of intention to quit, the property leased, duly given by one party to the other.

*Illustration to Clause (f).*

A lessee accepts from his lessor a new lease of the property leased, to take effect during the continuance of the existing lease. This is an implied surrender of the former lease, and such lease determines thereupon.

Waiver of  
forfeiture.

**112.** A forfeiture under section 111, clause (*g*), is waived by acceptance of rent which has become due since the forfeiture, or by distress for such rent, or by any other act on the part of the lessor showing an intention to treat the lease as subsisting :

Provided that the lessor is aware that the forfeiture has been incurred :

Provided also that, where rent is accepted after the institution of a suit to eject the lessee on the ground of forfeiture, such acceptance is not a waiver.

Waiver of  
notice to  
quit.

**113.** A notice given under section 111, clause (*h*), is waived, with the express or implied consent of the person to whom it is given, by any act on the part of the person giving it showing an intention to treat the lease as subsisting.

*Illustrations.*

(*a*) A, the lessor, gives B, the lessee, notice to quit the property leased. The notice expires. B tenders, and A accepts, rent which has become due in respect of the property since the expiration of the notice. The notice is waived.

(*b*) A, the lessor, gives B, the lessee, notice to quit the property leased. The notice expires, and B remains in possession. A gives to B as lessee a second notice to quit. The first notice is waived.

Relief against  
forfeiture for  
non-payment  
of rent.

**114.** Where a lease of immovable property has determined by forfeiture for non-payment of rent, and the lessor sues to eject the lessee, if, at the hearing of the suit, the lessee pays or tenders to the lessor the rent in arrear, together with interest thereon and his full costs of the suit, or gives such security as the Court thinks sufficient for making such payment within fifteen days, the Court may, in lieu of making a decree for ejectment, pass an order relieving the lessee against the forfeiture ; and thereupon the lessee shall hold the property leased as if the forfeiture had not occurred.

115. The surrender, express or implied, of a lease of immovable property does not prejudice an underlease of the property or any part thereof previously granted by the lessee on terms and conditions substantially the same (except as regards the amount of rent) as those of the original lease; but, unless the surrender is made for the purpose of obtaining a new lease, the rent payable by, and the contracts binding on, the under-lessee shall be respectively payable to and enforceable by the lessor.

Effect of surrender and forfeiture on under-leases.

The forfeiture of such a lease annuls all such under-leases, except where such forfeiture has been procured by the lessor in fraud of the under-lessees, or relief against the forfeiture is granted under section 114.

116. If a lessee or under-lessee of property remains in possession thereof after the determination of the lease granted to the lessee, and the lessor or his legal representative accepts rent from the lessee, or under lessee, or otherwise assents to his continuing in possession, the lease is, in the absence of an agreement to the contrary, renewed from year to year, or from month to month, according to the purpose for which the property is leased, as specified in section 106.

Effect of holding over.

### *Illustrations.*

(a) A lets a house to B for five years. B underlets the house to C at a monthly rent of Rs. 100. The five years expire, but C continues in possession of the house and pays the rent to A. C's lease is renewed from month to month.

(b) A lets a farm to B for the life of C. C dies, but B continues in possession with A's assent. B's lease is renewed from year to year.

117. None of the provisions of this Chapter apply to leases for agricultural purposes, except in so far as the Government may, by notification published in the Official Gazette, declare all or any of such provisions to be so applicable in the case of all or any of such leases, together with, or subject to, those of the local law, if any, for the time being in force.

Exemption of leases for agricultural purposes.

Such notification shall not take effect until the expiry of six months from the date of its publication.

## CHAPTER VI.

### OF EXCHANGES.

118. When two persons mutually transfer the ownership of one thing for the ownership of another, neither "Exchange" defined,

thing or both things being money only, the transaction is called an "exchange".

A transfer of property in completion of an exchange can be made only in manner provided for the transfer of such property by sale.

Right of party deprived of thing received in exchange.

119. In the absence of a contract to the contrary, the party deprived of the thing or part thereof he has received in exchange, by reason of any defect in the title of the other party, is entitled at his option to compensation or to the return of the thing transferred by him.

Rights and liabilities of parties.

120. Save as otherwise provided in this Chapter, each party has the rights and is subject to the liabilities of a seller as to that which he gives, and has the rights and is subject to the liabilities of a buyer as to that which he takes.

Exchange of money.

121. On an exchange of money, each party thereby warrants the genuineness of the money given by him.

## CHAPTER VII.

### OF GIFTS.

"Gift" defined.

122. "Gift" is the transfer of certain existing movable or immovable property made voluntarily and without consideration, by one person, called the donor, to another, called the donee, and accepted by or on behalf of the donee.

Acceptance when to be made.

Such acceptance must be made during the life time of the donor and while he is still capable of giving.

If the donee dies before acceptance, the gift is void.

Transfer how effected.

123. For the purpose of making a gift of immovable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor.

For the purpose of making a gift of movable property, the transfer may be effected either by a registered instrument signed as aforesaid or by delivery.

Such delivery may be made in the same way as goods sold may be delivered.

Gift of existing and future property. Gift to several of whom one does not accept.

124. A gift comprising both existing and future property is void as to the latter.

125. A gift of a thing to two or more donees, of whom one does not accept it, is void as to the interest which he would have taken had he accepted.

When gift may be suspended or revoked.

126. The donor and donee may agree that on the happening of any specified event which does not depend on

the will of the donor a gift shall be suspended or revoked ; but a gift which the parties agree shall be revocable wholly or in part, at the mere will of the donor, is void wholly or in part, as the case may be.

A gift may also be revoked in any of the cases (save want or failure of consideration) in which, if it were a contract, it might be rescinded.

Save as aforesaid, a gift cannot be revoked.

Nothing contained in this section shall be deemed to affect the rights of transferees for consideration without notice.

### *Illustrations.*

(a) A gives a field to B, reserving to himself, with B's assent, the right to take back the field in case B and his descendants die before A. B dies without descendants in A's lifetime. A may take back the field.

(b) A gives a lakh of rupees to B, reserving to himself with B's assent, the right to take back at pleasure Rs. 10,000 out of the lakh. The gift holds good as to Rs. 90,000, but is void as to Rs. 10,000, which continue to belong to A.

**127.** Where a gift is in the form of a single transfer to the same person of several things of which one is, and the others are not, burdened by an obligation, the donee can take nothing by the gift unless he accepts it fully. Onerous gifts.

Where a gift is in the form of two or more separate and independent transfers to the same person of several things, the donee is at liberty to accept one of them and refuse the others, although the former may be beneficial and the latter onerous.

A donee not competent to contract and accepting property burdened by any obligation is not bound by his acceptance. But if, after becoming competent to contract and being aware of the obligation, he retains the property given, he becomes so bound. Onerous gift to disqualified person.

### *Illustrations.*

(a) A has shares in X, a prosperous joint-stock company, and also shares in Y, a joint-stock company in difficulties. Heavy calls are expected in respect of the shares in Y. A gives B all his shares in joint-stock companies. B refuses to accept the shares in Y. He cannot take the shares in X.

(b) A having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is more than the house can be let for, gives to B the lease, and also, as a separate and independent transaction, a sum of money. B refuses to accept the lease. He does not by this refusal forfeit the money.

Universal  
donee.

**128.** Subject to the provisions of section 127, where a gift consists of the donor's whole property, the donee is personally liable for all the debts due by the donor at the time of the gift to the extent of the property comprised therein.

Saving of  
donations  
*mortis causa*  
and Muham-  
medan law.

**129.** Nothing in this Chapter relates to gifts of movable property made in contemplation of death, or shall be deemed to affect any rule of Muhammedan law, or, save as provided by section 123, any rule of Hindu or Buddhist law.

## CHAPTER VIII.

### OF TRANSFERS OF ACTIONABLE CLAIMS.

Transfer of  
actionable  
claim.

**130.** (1) The transfer of an actionable claim shall be effected only by the execution of an instrument in writing signed by the transferor or his duly authorized agent, and shall be complete and effectual upon the execution of such instrument, and thereupon all the rights and remedies of the transferor, whether by way of damages or otherwise, shall vest in the transferee, whether such notice of the transfer as is hereinafter provided be given or not :

Provided that every dealing with the debt or other actionable claim by the debtor or other person from or against whom the transferor would, but for such instrument of transfer as aforesaid, have been entitled to recover or enforce such debt or other actionable claim, shall (save where the debtor or other person is a party to the transfer or has received express notice thereof as hereinafter provided) be valid as against such transfer.

(2) The transferee of an actionable claim may, upon the execution of such instrument of transfer as aforesaid, sue or institute proceedings for the same in his own name without obtaining the transferor's consent to such suit or proceedings and without making him a party thereto.

*Exception.*—Nothing in this section applies to the transfer of a marine or fire policy of insurance.

### *Illustrations.*

(i) A owes money to B, who transfers the debt to C. B then demands the debt from A, who, not having received notice of the transfer, as prescribed in section 131, pays B. The payment is valid, and C cannot sue A for the debt.

(2) A effects a policy on his own life with an Insurance Company and assigns it to a Bank for securing the payment of an existing or future debt. If A dies, the Bank is entitled to receive the amount of the policy and to sue on it without the concurrence of A's executor, subject to the proviso in sub-section (1) of section 130 and to the provisions of section 132.

**131.** Every notice of transfer of an actionable claim shall be in writing, signed by the transferor or his agent duly authorized in this behalf, or, in case the transferor refuses to sign, by the transferee or his agent, and shall state the name and address of the transferee.

Notice to be in writing, signed.

**132.** The transferee of an actionable claim shall take it subject to all the liabilities and equities to which the transferor was subject in respect thereof at the date of the transfer.

Liability of transferee of actionable claim.

### *Illustrations.*

(i) A transfers to C a debt due to him by B, A being then indebted to B. C sues B, for the debt due by B to A. In such suit B is entitled to set off the debt due by A to him, although C was unaware of it at the date of such transfer.

(ii) A executed a bond in favour of B under circumstances entitling the former to have it delivered up and cancelled. B assigns the bond to C for value and without notice of such circumstances. C cannot enforce the bond against A.

**133.** Where the transferor of a debt warrants the solvency of the debtor, the warranty, in the absence of a contract to the contrary, applies only to his solvency at the time of the transfer, and is limited, where the transfer is made for consideration, to the amount or value of such consideration.

Warranty of solvency of debtor.

**134.** Where the debt is transferred for the purpose of securing an existing or future debt, the debt so transferred if received by the transferor or recovered by the transferee, is applicable, first, in payment of the costs of such recovery: secondly, in or towards satisfaction of the amount for the time being secured by the transfer; and the residue, if any, belongs to the transferor or other person entitled to receive the same.

Mortgaged debt.

**135.** Every assignee, by endorsement or other writing, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

Assignment rights under marine or fire policy of insurance.

Incapacity of  
officers con-  
nected with  
Courts of  
Justice.

**136.** No Judge, legal practitioner, or officer connected with any Court of Justice shall buy or traffic in, or stipulate for, or agree to receive, any share of, or interest in, any actionable claim, and no Court of Justice shall enforce, at his instance, or at the instance of any person claiming by or through him, any actionable claim so dealt with by him as aforesaid.

Saving of  
negotiable in-  
struments,  
etc.

**137.** Nothing in the foregoing sections of this Chapter applies to stocks, shares or debentures, or to instruments which are for the time being, by law or custom, negotiable, or to any mercantile document of title to goods.

*Explanation.*—The expression “mercantile document of title to goods” includes a bill of lading, dock-warrant, warehouse-keeper’s certificate railway receipt, warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented.

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# The Mysore Co-operative Societies Act.

(No. VII of 1918.)

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## ACT No. VII OF 1918.

*(Received the Assent of His Highness the Maharaja,  
on the 4th day of August 1918.)*

(As amended by Acts V of 1929, VI of 1933 and  
I of 1935.)

**Act to amend the Law relating to Co-operative  
Societies in Mysore.**

Whereas it is expedient to amend the law relating to Co-operative Societies in Mysore; His Highness the Maharaja is pleased to enact as follows:—

*Preliminary.*

1. (1) This Act may be called the Mysore Co-operative Societies Act, 1918. Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of Mysore; and

(3) It shall come into force on the date of the passing thereof.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) “by-laws” means the registered by-laws for the time being in force and includes a registered amendment of the by-laws;

(b) “committee” means the governing body of a registered society to whom the management of its affairs is entrusted:

(c) “member” includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the by-laws and any rules made under this Act;

[a] (d) “financing bank” means a registered society, the main object of which is to lend money to registered societies and includes a registered society which had among its objects the lending of money to registered societies; [a]

(e) “officer” includes a chairman, secretary, treasurer, member of committee, or other person empowered under the rules or the by-laws to give directions in regard to the business of the society;

(f) “registered society” means a society registered or deemed to be registered under this Act;

(g) “registrar” means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act; and

(h) “rules” means rules made under this Act.

### *Objects.*

Objects of societies.

3. A society shall consist of persons who have for their common object or objects some one or more of the following, namely:—

- (1) the furtherance of thrift and providence among the members;
- (2) the attraction of capital and the grant of credit to the members;
- (3) the supply to members of raw material, seed or manure;
- (4) the sale on behalf of members of agricultural produce or of manufactured goods;
- (5) the manufacture of goods or growth of produce by the members co-operatively;
- (6) the purchase of food-stuffs, clothing or other articles of consumption, or of animals, implements or other stock required in agriculture or industry and their retail sale to members;
- (7) the purchase of machinery and its use in common by members;
- (8) the building of houses or purchase of lands for members;
- (9) the carrying out or development, by joint action of an improvement whether agricultural or industrial;
- (10) the insurance of the person, families and property of the members including live-stock co-operatively.
- (11) any other object calculated to promote the economic interests of the members of a society in accordance with co-operative principles; and
- (12) the facilitating of the operations of a society.

### *Registration.*

The Registrar.

4. The Government may appoint a person to be Registrar of Co-operative Societies for the whole or any

portion of Mysore, [a] or for any class of such societies [a] and may appoint persons to assist such Registrar, and may by general or special order confer on any such persons all or any of the powers of a Registrar under this Act.

5. Subject to the provisions hereinafter contained, a society which has as its object some one or more of those specified in section 3 may be registered under this Act with or without limited liability :

Liability of members.

Provided that the liability of a society of which a member is a registered society shall be limited.

6. Where the liability of the members of a society is limited by shares, no member other than a registered society shall,—

Restrictions on interest of member of a society with limited liability and a share capital.

- (a) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules, or
- (b) have or claim any interest in the shares of the society exceeding one thousand rupees without the express sanction of the Government.

7. (1) No society, other than a society of which a member is a registered society, shall be registered under this Act, which does not consist of at least ten persons above the age of eighteen years.

Conditions of registration.

(2) The word “limited” shall be the last word in the name of every society with limited liability registered under this Act.

8. (1) For purpose of registration an application to register shall be made to the Registrar.

Application for registration.

(2) The application shall be signed,—

- (a) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of section 7, sub-section (1); and
- (b) in the case of a society of which a member is a registered society, by a duly authorized person on behalf of every such registered society and where all the members of a society are not registered societies, by ten other members or when there are less than ten other members, by all of them.

(3) The application shall be accompanied by a copy of the proposed by-laws of the society and the persons by whom or on whose behalf such application is made shall

furnish such information in regard to the society as the Registrar may require.

Registration. 9. (1) If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules, and that its proposed by-laws are not contrary to the Act or to the rules, he may, if he thinks fit, register the society and its by-laws.

[a] (2) If the Registrar refuses to register a society, an appeal shall lie to the Government within two months from the date of the communication by the Registrar of his refusal to register the society.[a]

Evidence of registration. 10. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled.

Amendment of the by-laws of a registered society. 11. (1) No amendment of the by-laws of a registered society shall be valid until the same has been registered under this Act, for which purpose a copy of the amendment shall be forwarded to the Registrar.

(2) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may, if he thinks fit, register the amendment.

(3) When the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

[b] (4) When the Registrar refuses approval to the making, alteration or abrogation of any by-laws, an appeal shall lie to the Government within one month from the date of the communication by the Registrar of his refusal.[b]

### *Rights and Liabilities of Members.*

Exercise of rights of members. 12. No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society as may be prescribed by the rules or the by-laws.

Votes of members. 13. [c] (1) No member of any registered society shall have more than one vote in the affairs of the society

[a] Inserted by section 2 of Act VI of 1933.

[b] Added by section 3 of Act VI of 1933.

[c] Substituted for the original section by section 4 of Act VI of 1933,

provided that in the case of an equality of votes the Chairman shall have a casting vote.

(2) No vote shall be given by proxy.

(3) A registered society which has invested any part of its funds in the shares of another society may appoint any of its members not disqualified for appointment under any rules prescribed in that behalf to vote in the affairs of such other society.[c]

14. (1) The transfer or charge of the share or interest of a member in the capital of a registered society, shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules. Restrictions on the transfer of share or interest.

(2) A member shall not transfer any share held by him or his interest in the capital of the society or any part thereof, unless

(a) he has held such share or interest for not less than one year, and

(b) the transfer or charge is made to the society or to a member of the society.

#### *Duties of Registered Societies.*

15. Every registered society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall send to the Registrar notice of every change thereof. Address of societies.

16. Every registered society shall keep a copy of this Act, of the rules governing such society and of its by-laws open to inspection free of charge at all reasonable times at the registered address of the society. Copy of Act, rules and by-laws open to inspection.

17. (1) The Registrar shall audit or cause to be audited by some person authorized by him or by general or special order in writing in this behalf, the accounts of every registered society once at least in every year. Audit.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, [a] the verification of cash balance and securities [a] and a valuation of the assets and liabilities of the society.

[b] (3) The Registrar or the person authorized by him under sub-section (1) shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in

[a] Inserted by section 5 of Act VI of 1933.

[b] Substituted for original sub-section (3) by section 5 of Act VI of 1933.



possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.

(4) Every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorized by him under sub-section (1) may require.[b]

*Privileges of Registered Societies.*

Societies to  
be bodies  
corporate.

18. The registration of a society shall render it a body corporate by the name under which it is registered with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

Prior claim  
of society.

19. Subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue or of a landlord in respect of rent or any money recoverable as rent, a registered society shall be entitled in priority to other creditors to enforce any outstanding demand due to the society from a member or past member—

(a) in respect of the supply of seed or manure or of the loan of money for the purchase of seed or manure—upon the crops or other agricultural produce of such member or person at any time within eighteen months from the date of such supply or loan ;

(b) in respect of the supply of cattle, fodder for cattle, agricultural or industrial implements or machinery or raw materials for manufacture or of the loan of money for the purchase of any of the foregoing things—upon any such things so supplied, or purchased in whole or in part from any such loan, or on any articles manufactured from raw materials so supplied or purchased.

Charge and  
set-off in  
respect of  
shares or  
interest of  
member.

20. A registered society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set-off any sum credited or payable to a

member or past member in or towards payment of any such debt.

21. Subject to the provisions of section 20, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member, and a Receiver appointed under the Mysore Insolvency Act, 1911, shall not be entitled to or have any claim on such share or interest.

Shares or interest not liable to attachment.

22. (1) On the death of a member, a registered society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or by-laws.

Transfer of interest on death of member.

(2) A registered society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

23. The liability of a past member for the debt of a registered society as they existed at the time when he ceased to be a member shall continue for a period of two years from the date of his ceasing to be a member.

Liability of past member.

24. The estate of a deceased member shall be liable for a period of one year from the time of his decease for the debts of a registered society as they existed at the time of his decease.

Liability of the estate of deceased member.

25. Any register or list of members or shares kept by any registered society shall be *prima facie* evidence of the following particulars entered therein :—

Register of members.

(a) the date at which the name of any person was entered in such register or list as a member ;

(b) the date at which any such person ceased to be a member.

26. A copy of any entry in a book of a registered society regularly kept in the course of business, shall, if certified in such manner as may be prescribed by the rules, be received in any suit or legal proceeding as *prima facie*

Mode of proof of entries in societies' books.

evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

Exemption from compulsory registration of instruments relating to shares and debentures of registered society.

27. Nothing in section 17, clauses (b) and (c) of the Mysore Registration Act, I of 1903, shall apply to:—

- (1) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immovable property; or
- (2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or
- (3) any endorsement upon or transfer of any debenture issued by any such society.

Power to exempt from stamp-duty and registration fees.

28. (1) The Government, by notification in the Official Gazette, may, in the case of any registered society or class of registered societies, remit:—

- (a) any tax payable to Government or to a local authority in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits;
- (b) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of such society, or any class of such instruments, are respectively chargeable;
- (c) any fee payable under the law of registration for the time being in force.

#### *Property and Funds of Registered Societies.*

Registration of loans,

29. (1) A registered society shall not make loan to any person other than a member provided that, with the

consent of the Registrar, a registered society may make loans to another registered society.

(2) The Government may, by general or special order, prohibit or restrict the lending of money on the security of movable or immovable property or any kind thereof by any registered society or class of registered societies.

**30.** A registered society may receive deposits and loans from members without restriction, but it shall not receive deposit and loans from persons, who are not members except to such extent and under such conditions as may be provided by the rules or by-laws.

Restrictions  
on borrowing.

**31.** Save as provided in sections 29 and 30, the transactions of a registered society with persons other than members shall be subject to such prohibitions, and restrictions, if any, as the Government may, by rules prescribe.

Restrictions  
on other  
transactions  
with non-  
members.

**32.** A registered society may invest or deposit its funds:—

Deposit of  
society's  
funds.

(a) in the Government Savings Bank, or

(b) in the Post Office Savings Bank, or

(c) in the shares or on the security of any other society, or

(d) with any Bank or person carrying on the business of banking approved for this purpose by the Registrar, or

(e) in any other mode permitted by the rules.

**33.** No part of the funds of a registered society shall be divided by way of bonus or dividend or otherwise among its members:—

Funds not to  
be divided by  
way of profit.

Provided that after at least one-fourth of the net profits in any year have been carried to a reserve fund, payments from the remainder of such profits and from any profits of past years available for distribution may be made among the members to such extent and under such conditions as may be prescribed by the rules or by-laws.

**34.** Any registered society may, with the sanction of the Registrar, after one-fourth of the net profits in any year has been carried to a reserve fund, contribute an amount not exceeding fifteen *per cent* of the remaining net profits to any charitable purpose.

Contribution  
to charitable  
purposes.

*Explanation.*—Charitable purpose in this section includes the relief of the poor, education, medical relief and the advancement of any other object of public utility but does not include a purpose which relates exclusively to religious teaching or worship.

*Inquiry and Inspection.*

Inquiry by  
the Registrar.

35. (1) The Registrar may of his own motion, and shall [a] on the application of a majority of the committee or of not less than one-third of the members, hold an inquiry or direct some person authorised by him by order in writing [b] in accordance with the rules made [b] in this behalf to hold an enquiry into the constitution, working and financial condition of a registered society.

[c] (2) The Registrar or the person authorized by him under sub-section (1) shall have the following powers, namely—

(a) He shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.

(b) He may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath.

(c) (i) He may, notwithstanding any rule or by-law prescribing the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him. If the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself.

(ii) Any meeting called under clause (i) shall have all the powers of a general meeting called under the by-laws of the society and its proceedings shall be regulated by such by-laws.

(iii) When an enquiry is made under this section, the Registrar shall communicate the result of the enquiry to the society concerned and to the financing bank, if any, to which the society is indebted. [c]

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[a] Certain words were omitted by section 6 of Act VI of 1933.

[b] Inserted by section 6 of Act VI of 1933.

[c] Substituted for the original sub-section (2) by section 6 of Act VI of 1933.

[a] 36. (1) The Registrar may, on the application of a creditor of a registered society, inspect or direct some person authorised by him in this behalf by a general or special order in writing to inspect the books of the society and the Registrar or the person so authorised shall have all the powers conferred by sub-clauses (a) and (b) of sub-section (2) of section 35, except the power to examine on oath.

Inspection of  
books of  
indebted  
societies.

(2) No inspection shall be made or directed under sub-section (1) unless the creditor—

(a) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time ; and

(b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(3) When an inspection is made under sub-section (1), the Registrar shall communicate the results of such inspection to the creditor and to the financing bank, if any, to which the society is indebted. [a]

[b] 36-A. A financing bank shall have the right to inspect the books of any registered society which is indebted to it. The inspection may be made either by an officer of the financing bank, or by a member of its paid staff certified by the Registrar as competent to undertake such inspection. The officer or member so inspecting shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank. [b]

Inspection of  
books by  
financing  
bank.

37. Where an enquiry is held under section 35 or an inspection is made under section 36, the Registrar may [c] after giving the parties an opportunity to be heard [c] apportion the costs or such part of the costs as he may think right between the society, the members or creditor demanding an enquiry or inspection and the officers or former officers of the society.

Costs of in-  
quiry and  
inspection.

38. Any sum awarded by way of costs under section 37 may be recovered on application to a Magistrate having

Recovery of  
costs.

[a] Substituted for the original section 36 by section 7 of Act VI of 1933.

[b] Inserted by section 8 of Act VI of 1933.

[c] Inserted by section 9 of Act VI of 1933.

jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides or carries on business by the distress and sale of any movable property within the limits of the jurisdiction of such Magistrate belonging to such person.

[a] *Supersession of Committee of Society.*

Supersession  
of Committee

**38-A.** If, in the opinion of the Registrar, the committee of any registered society is not functioning properly, he may, after giving an opportunity to the committee to state its objections, if any, and after considering the objections raised, call upon the members of the society to appoint another committee in such time as may be fixed by him. If the members fail to appoint a committee which, in the opinion of the Registrar, is likely to function satisfactorily and the Registrar is of opinion that, in the circumstances of the case, it is undesirable to order the cancellation of the registration of the society he may, by order in writing, dissolve the committee and appoint a suitable person or persons to manage the affairs of the society for a specified period not exceeding one year. The period specified in such order may, at the discretion of the Registrar, be extended from time to time, provided that such order shall not remain in force for more than two years in the aggregate.

(2) The person or persons so appointed shall have power, subject to the control of the Registrar, to recover the assets and discharge the liabilities of the society and take such action as may be required in its interests.

(3) The Registrar may fix the remuneration payable to the person or persons so appointed. The amount of such remuneration and other costs, if any, incurred in the management of the society shall be payable from its funds.

(4) The person or persons so appointed shall, at the expiry of the period of his or their appointment, arrange for the constitution of a new committee in accordance with the by-laws of the society.

(5) Before taking action under sub-section (1) in respect of any society, the Registrar shall, if the society is indebted to a financing bank, consult such bank regarding such action and the provision to be made for the management of the affairs of the society.

(6) Any member of the society may, within one month from the date of an order passed by the Registrar under sub-section (1), appeal from such order to the Government.

(7) Nothing in this section shall be deemed to affect the powers of the Registrar to cancel the registration of the society under section 39. [a]

### *Dissolution of Society.*

**39.** (1) If the Registrar, after an enquiry has been held under section 35 or after an inspection has been made under section 36 [b] or section 36A or on receipt of an application made by three-fourths of the members of a registered society, is of opinion that the society ought to be dissolved, he may cancel the registration of the society. Dissolution.

(2) Any member of a society may, within two months from the date of any order made under sub-section (1) appeal from such order to the Government.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of a society, the order shall take effect on the expiry of that period.

(4) Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the Government.

**40.** Where it is a condition of the registration of a society that it should consist of at least ten members, the Registrar may, by order in writing, cancel the registration of the society if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten. Cancellation of registration of society.

**41.** Where the registration of a society is cancelled, the society shall cease to exist as a corporate body:— Effect on cancellation of registration.

(a) in the case of cancellation in accordance with the provisions of section 39, from the date the order of cancellation takes effect;

(b) in the case of cancellation in accordance with the provisions of section 40, from the date of the order.

**42.** [c](1) Where the Registrar has passed an order under section 39 or section 40 for the winding up of a co-operative society, he may forthwith appoint a competent Winding up.

[b] Added by section 11 of Act VI of 1933.

[c] Substituted for the original sub-section (1) by section 12 of Act VI of 1933.





(5) Save in so far as is hereinbefore expressly provided no Civil Court shall have any jurisdiction in respect of any matter connected with the dissolution of a society under this Act.

*Surcharge and Attachment.*

[a] **42-A.** (1) Where in the course of an audit under Surcharge. section 17 or an enquiry under section 35 or an inspection under section 36 or the winding up of a society, it appears that any person who has taken part in the organization or management of the society or any past or present officer of the society has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society, the Registrar may, of his own motion or on the application of the committee or liquidator or of any creditor or contributory, examine into the conduct of such person or officer and make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in respect of the misappropriation, fraudulent retainer or breach of trust as the Registrar thinks just.

(2) The order of the Registrar under sub-section (1) shall be final unless it is set aside by the District Court having jurisdiction over the area in which the headquarters of the society are situated on application made by the party aggrieved within three months of the date of receipt of the order by him.

(3) Any sum ordered under this section to be repaid to a society or recovered as a contribution to its assets may be recovered on a requisition being made in this behalf to the Deputy Commissioner by the Registrar in the same manner as arrears of land revenue.

(4) This section shall apply notwithstanding such person or officer may have incurred criminal liability by his act.

**42-B.** Where the Registrar is satisfied on the affidavit of the liquidator or otherwise that any person with intent to defeat or delay the execution of any order that may be passed against him under clause (b) of sub-section (2) of section 42 or under section 42-A.— Attachment of property.

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar,

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary and such attachment shall have the same effect as if it had been made by a competent civil court :

Provided, however, that if during the continuance of conditional attachment the party furnishes adequate security, the attachment so placed shall be withdrawn. [a]

### *Amalgamation.*

Amalgama-  
tion.

**43.** (1) Any two or more registered societies may by resolutions of both or all such societies passed and registered in accordance with rules made by Government in this behalf become amalgamated together as one registered society with or without any dissolution or division of the funds of such societies or either of them and the properties of such societies shall become vested in the amalgamated society without the necessity of any form of conveyance other than that contained in the resolution amalgamating the societies.

(2) Any registered society may by a resolution passed and registered in like manner transfer its engagements to any other registered society which may undertake to fulfil the engagements of such society.

(3) An amalgamation or transfer of engagements in pursuance of this section shall not prejudice any right of a creditor of any registered society which is a party thereto.

### *Decision of Disputes.*

Disputes.

[b] **43-A.** (1) If any dispute touching the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society) arises—

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past member or person claiming through a member, past member, or deceased member, and the society, its committee or any officer, agent or servant of the society, or

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[b] Sections 43A, 43B, 43C, 43D, 43E, 43F, 43G and 43H were newly introduced by sections 14 to 18 of Act VI of 1933.

(c) between the society or its committee and any officer, agent or servant of the society, or

(d) between the society and any other registered society,

such dispute shall be referred to the Registrar for decision.

*Explanation.*—A claim by a registered society for any debt or demand due to it from a member, past member, or the nominee, heir or legal representative of a deceased member, whether such debt or demand be admitted or not, is a dispute touching the business of the society within the meaning of this sub-section.

(2) Subject to such rules as may be prescribed, the Registrar may on receipt of such reference—

(a) decide the dispute himself, or transfer it for disposal to any person who has been invested by the Government with powers in this behalf, or

(b) refer it for disposal to an arbitrator or arbitrators, or

(c) refer the parties to the civil court.

(3) Subject to such rules as may be prescribed, the Registrar may withdraw any reference referred under clause (b) of sub-section (2) and deal with it in the manner provided in the said sub-section.

(4) Where the Registrar is satisfied by affidavit or otherwise that a party to any reference made to him under sub-section (1), with intent to defeat or delay the execution of any decision that may be passed thereon—

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar.

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary, and such attachment shall have the same effect as if it had been made by a competent civil court, provided, however, that if during the continuance of the conditional attachment, the party furnishes adequate security the attachment so placed shall be withdrawn.

(5) Subject to such rules as may be prescribed,

(a) any party aggrieved by the award of an arbitrator or arbitrators or by an order of the person referred to in sub-section 2 (a), may appeal to the Registrar within one month from the date of such award or order; and

(b) any party aggrieved by an order of the Registrar deciding the dispute himself under sub-section 2 (a), may appeal to the Government within one month from the date of such order.

(6) (a) Any decision passed by the Registrar or the Government under sub-section (5) shall be final and shall not be called in question in any civil or revenue court.

(b) Any decision passed under sub-section (2) by the Registrar or by the person to whom a dispute is transferred or by the arbitrator or arbitrators to whom a dispute is referred shall, save as otherwise provided in sub-section (5), be final and shall not be called in question in any civil or revenue court.

Summoning  
of witnesses.

**43-B.** Subject to such rules as may be prescribed, the Registrar or any person or arbitrator or arbitrators to whom a dispute is referred or transferred for disposal under section 43-A, or a liquidator appointed under section 42, shall, in so far as such powers are necessary for carrying out the purposes of the said sections, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means, and so far as may be, in the same manner as is provided in the case of a civil court under the Code of Civil Procedure, 1911.

Money how  
recovered.

**43-C.** (1) Every order passed by a liquidator under section 42 or by the Registrar or his nominee or arbitrators on disputes referred to him or them under section 43-A shall, if not carried out, be executed—

(a) on a certificate signed by the Registrar or a liquidator, by any civil court in the same manner as a decree of such court, or

(b) according to the law and under the rules for the time being in force for the recovery of arrears of land revenue, provided that any application for the recovery in such manner of any such sum shall be made to the Deputy Commissioner and shall be accompanied by a certificate signed by the Registrar or by an Assistant Registrar to whom the said power has been delegated by the Registrar.

(2) When the property attached in execution of an order referred to in sub-section (1) cannot be sold for want of buyers, the same may be handed over to a registered society with the previous consent of the Registrar on such terms and conditions as may be agreed upon between the Deputy Commissioner and the said society.

## OFFENCES AND PENALTIES.

**43-D.** It shall be an offence under the Regulation Offences, if—

(a) a registered society or an officer or member thereof wilfully makes a false return, furnishes false information; or

(b) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorised in this behalf under the provisions of this Act.

**43-E.** Any member or past member or the nominee, heir or legal representative of a deceased member contravening the provisions of section 19 by fraudulently disposing of any property in respect of which the society is entitled to claim priority under that section or fraudulently doing any other act to the prejudice of such claim, shall be punishable with fine not exceeding two hundred rupees.

Punishment for disposing of property in contravention of section 19.

**43-F.** Any registered society or any officer or member thereof or any other person guilty of an offence under this Act for which no punishment is expressly provided herein shall be punishable with fine not exceeding fifty rupees.

Punishment for offences not otherwise provided for.

**43-G.** (1) No court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

Cognizance of offences.

(2) Every offence under this Act shall, for the purposes of the Code of Criminal Procedure, be deemed to be non-cognizable.

(3) No prosecution shall be instituted under this Act without the previous sanction of the Registrar. Such sanction shall not be given without giving the party concerned an opportunity to be heard.

**43-H.** The Government or the Registrar may call for and examine the record of any enquiry or the proceedings of any officer subordinate to them for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If, in any case, it shall appear to the Government or the Registrar that any decision or order or proceedings so called for should be modified, annulled or reversed, the Government or the Registrar, as the case may be, may pass such order thereon as to it or him may seem fit,

Power of Government and Registrar to call for proceedings and to pass orders thereon.

*Rules.**Rules.*

**44.** (1) The Government may for the whole or any part of Mysore and for any registered society or class of registered societies, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) subject to the provisions of section 6 prescribe the maximum number of shares or portion of the capital of a society which may be held by a member ;

(b) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications ;

(c) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering, and abrogating by-laws and the conditions to be satisfied prior to such making, alteration or abrogation ;

(d) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members and the payment to be made and the interests to be acquired before the exercise of the right of membership ;

(e) regulate the manner in which funds may be raised by means of shares or debentures or otherwise ;

(f) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings ;

(g) provide for the appointment, suspension and removal of the members of the committee and other officers and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers ;

(h) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts, and the charges, if any, to be made for such audit, and for the periodical

publication of a balance-sheet showing the assets and liabilities of a society ;

(i) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted ;

(j) provide for the persons by whom and the form in which copies of entries in books of societies may be certified ;

(k) provide for the formation and maintenance of a register of members, and, where the liability of the members is limited by shares, of a register of shares ;

[a] (kk) specify the class of persons to whom the power under section 35 may be delegated.[a]

[b] (l) provide for—

(i) the appointment of an arbitrator or arbitrators to decide disputes ;

(ii) the procedure to be followed in proceedings before the Registrar, arbitrator, or arbitrators, including the appointment of a guardian for a party to the dispute who is a minor, or who, by reason of unsoundness of mind or mental infirmity, is incapable of protecting his interests ;

(iii) the levy of the expenses incidental to such proceeding ; and

(iv) the enforcement of the decisions or awards in such proceedings ; [b]

(m) provide for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled and for the liabilities of past members ;

(n) provide for the mode in which the value of a deceased member's interest shall be ascertained and for the nomination of a person to whom such interest may be paid or transferred ;

(o) describe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent to an individual member ;

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[a] Added by section 19 (1) of Act VI of 1933.

[b] Substituted for the original clause by section 19 (2) of Act VI of 1933.



- (p) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of the society ;
- (q) prescribe the extent to which a society may limit the number of its members ;
- (r) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability, and the maximum rate of dividend which may be paid by a society ;
- (s) subject to the provisions of section 39, determine in what cases an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of such appeals ;
- (t) prescribe the procedure to be followed by a liquidator appointed under section 42 and the cases in which an appeal shall lie from the order of such liquidator ; and
- (u) prescribe the procedure to be observed and conditions to be fulfilled in passing and registering a resolution for amalgamation or transfer of engagements under section 43.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be published in the official Gazette, and on such publication have effect as if enacted in this Act.

#### *Miscellaneous.*

Recovery of  
sums due to  
Government.

**45.** (1) All sums due from a registered society or from an officer or member or past member of a registered society as such to the Government, including any cost awarded to the Government under section 37 may be recovered in the same manner as arrears of land revenue.

(2) Sums due from a registered society to Government and recoverable under sub-section (1) may be recovered firstly, from the property of the society, secondly in the case of a society of which the liability of the members is limited, from the members subject to the limit of their liability ; and thirdly in the case of other societies, from the members,

46. Notwithstanding anything contained in this Act, the Government may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration.

Power to exempt societies from conditions as to registration.

47. The Government may, by general or special order, exempt any society from any of the provisions of this Act or may direct that such provisions shall apply to the society with such modifications as may be specified in the order.

Power to exempt registered societies from provisions of the Act.

48. (1) No person other than a registered society shall trade or carry on business under any name or title of which the word "co-operative" is part, without the sanction of the Government:—

Prohibition of the use of the word "co-operative."

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into operation.

(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

49. The provisions of the Mysore Companies Act, 1917, shall not apply to societies registered under this Act.

Mysore Companies Act, 1917, not to apply.

50. Every society now existing which has been registered under the Mysore Co-operative Societies Act, III of 1905, shall be deemed to be registered under this Act and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

Saving of existing societies.

51. The Mysore Co-operative Societies Act, III of 1905, is hereby repealed.

Repeal of Act, III of 1905.

#### [a] SPECIAL PROVISIONS RELATING TO CO-OPERATIVE LAND MORTGAGE BANKS.

52. In the following sections, unless there is anything repugnant in the subject or context,—

Definitions.

[b] (1) "Co-operative Land Mortgage Bank" or "Bank" means a registered society formed for granting

[a] Added by section 2 of Act V of 1929.

[b] Substituted for original sub-sections (1) and (2) by section 2 of Act I of 1935.

loans on the mortgage of agricultural land, for the liquidation of prior debts of agriculturists, or for the improvement or better cultivation of agricultural land, or formed primarily for the purpose of financing such society.

(2) "Central Co-operative Land Mortgage Bank" or "Central Bank" means a Bank which has for its primary object the financing of Co-operative Land Mortgage Banks.

(3) "Primary Land Mortgage Bank" or "Primary Bank" means a Bank affiliated to a Central Bank.

(4) "Board" means in relation to a Primary Bank, the committee of the Central Bank which has financed such Primary Bank.

(5) "Trustee" means the person appointed by the Government to secure the fulfilment of the obligations of a Bank to the holders of debentures issued by such Bank.

By-laws-  
subject to  
previous  
approval of  
Government;  
Contents of  
by-laws.

53. The first by-laws of a Co-operative Land Mortgage Bank as well as every alteration thereof shall be subject to the previous approval of the Government, and shall make provision, among other matters, for—

[a] \* \* \*

(c) constituting a reserve fund and carrying to it a sum not less than ten per cent of the net profits of every year ;

(d) fixing the minimum and maximum amount of loans that may be granted ;

(e) fixing the maximum rates of interest on loans ;

(f) fixing the maximum duration of loans ;

(g) ear-marking the capital raised by debentures for the grant of loans on the mortgage of agricultural land ;

(h) the valuation of the property offered as security for loans ;

(i) fixing the proportion which the amount of loan should bear to the value of the property offered as security for the loan ;

(j) fixing the maximum rate of interest on debentures and the maximum and minimum periods for the redemption thereof ;

(k) the manner and conditions of redemption and repurchase of debenture bonds ;

(l) the reduction of the rate of interest payable on any series of debenture bonds at any time after the expiry of the minimum period of redemption thereof and after giving the holders the option to accept payment in cash at par ;

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[a] Clauses (a) and (b) were deleted by section 21 of Act VI of 1933.

(m) transferring to the trustee, if so required by him, the Bank's rights in the mortgages on the security of which debentures are issued and crediting to an account opened in his name in such other bank as may be approved by the Government all recoveries made from the members of the Bank under the terms of their mortgage deeds ;

(n) getting the accounts of the Bank audited at least once a year by a duly certified auditor or by an officer deputed by the Government ; and

(o) regulating [a] other matters concerning the organization and working of the Bank, the remuneration, if any, which the members of the Committee [a] and the local agents and auditors are to receive.

[c] Provided that the Government may delegate to the Registrar, the power of approval mentioned in this section in the case of any Bank or class of Banks.

54. When the interest on any loan raised by the Bank is guaranteed by the Government or when contribution of any kind is made by the Government to the capital or working expenses of the Bank, the Government shall have the power to nominate [b] two members to the Committee whether such nominees are members of the Bank or not.

Power of Government to nominate two members to Committee.

55. When any part of the capital of the Bank consists of loans raised by debentures issued by the Bank, not less than two members of the Committee shall be representatives of the holders of such debentures, whether they are members of the Bank or not, and they shall be selected in the manner prescribed by the Government.

Appointment of representatives of debenture holders to Committee.

56. Debenture bonds may be issued by a Co-operative Land Mortgage Bank only with the previous sanction of the Government and they shall be in such form and contain such covenants and provisions as the Bank, with the previous sanction of the Government, may prescribe.

Issue of Debentures.

57. Debenture bonds issued in conformity with section 56—

Debentures to be negotiable instruments and securities for investing trust funds.

(a) shall be deemed to be negotiable instruments to which the provisions of the Mysore Negotiable Instruments Act, 1917, apply, and

(b) shall be included amongst the securities in which a trustee may invest trust funds under any law for the time being in force in Mysore.

[a] The words "with the previous sanction of Government" and "the Board of Supervision" were deleted by section 21 of Act VI of 1933.

[b] Substituted for "one member" by section 22 of Act VI of 1933 and the words "and one member to the Board of Supervision" were deleted.

[c] Added by section 3 of Act I of 1935.

Purposes for which loans may be granted.

58. (1) A Co-operative Land Mortgage Bank may grant loans only for the following purposes, namely :—

(a) for the redemption of subsisting mortgages on agricultural land,

(b) for the liquidation of other prior debts of agriculturists,

(c) for the improvement or the better cultivation of agricultural land, and

(d) for current agricultural operations.

(2) A loan [a] may be granted only on the mortgage of agricultural land which is situate in Mysore and is free from all incumbrances other than those, if any, to be redeemed. Such mortgage shall be without possession.

(3) No loan [a] for current agricultural operations shall be granted except to a member who has been previously granted a loan for [b] any of the purposes specified in sub-section [c] (1) (a), (b) and (c) and whose mortgage is subsisting.

When a loan may be recalled.

59. A Co-operative Land Mortgage Bank may recall a loan—

(i) if after the loan has been granted, the information furnished by the borrower regarding the security, the incumbrances thereon or his interest therein is found to be incorrect in material particulars, or

(ii) if the loan is utilised for a purpose different from that for which it was granted, or

(iii) if the mortgaged property has, in the opinion of the Bank, deteriorated in its value as security for the loan and the borrower fails to furnish additional security to the satisfaction of the Bank, or

(iv) if on the death of the borrower, or in the case of joint borrowers, on the death of any one of them, his legal representative does not consent to continue as a member of the Bank, or

(v) if for any other reason the borrower, or in the case of joint borrowers any one of them, ceases to be a member of the Bank, or

(vi) if the borrower commits default in the payment of any instalment on the due date, or

(vii) if the borrower alienates, or creates any subsequent incumbrance on the mortgaged land.

Remedies if a loan recalled is not repaid.

60. (1) When a loan is recalled under the provisions of section 59 and is not repaid within three months from

[a] Certain words were omitted by section 24 of Act VI of 1933.

[b] Substituted for "either" by section 24 of Act VI of 1933.

[c] Substituted for "(2)" by section 24 of Act VI of 1933.

the date of recall, the Bank may apply to the Registrar for the recovery of the loan.

(2) If, after such inquiry as may be prescribed by the Government, the Registrar finds that the amount or any part of the amount claimed in such application is due to the Bank, he may, having regard to all the circumstances of the case—

- (a) extend the time for the payment of such amount for a period not exceeding six months and, if the amount is not paid within such period, order the sale of the land or other security or a sufficient part thereof, or
- (b) order that the Bank be put in possession of the said land for a reasonable period and upon good cause shown extend such period, or
- (c) forthwith order the sale of the said land or other security or a sufficient part thereof, as he thinks fit.

(3) The Registrar may also, upon good cause shown and after notice to the borrower, order the sale of the land at any time after the Bank has been put in possession of it.

(4) Every order made under this section for possession or sale of the land shall be sent to the Deputy Commissioner of the District in which the land is situate, for execution.

**61.** Notwithstanding anything contained in the Transfer of Property Act, 1918, or any other law for the time being in force, no incumbrance created on the land, and no lease thereof, and no transfer of the same by sale, gift or otherwise by the mortgagor and no charge thereon created by the decree of a Civil Court or otherwise arising by operation of law, after such land has been mortgaged to the Bank, shall affect the right of the Bank to any of the remedies provided in section 60 :

*Bank's rights not affected by subsequent transfer of mortgaged land.*

Provided that if any such incumbrancer, alienee or charge-holder has had his interest in the land registered in the office of the Bank in accordance with the rules framed by the Government in this behalf, the Bank shall, when the loan is recalled under the provisions of section 59, send by registered post to every such person a written notice of such recall.

**62.** When a Co-operative Land Mortgage Bank is put in possession of the mortgaged land in execution of an order made under section 60, the Bank shall be subject to all the duties imposed by section 76 of the Transfer of

*Bank's duties on taking possession of mortgaged land.*

Property Act, 1918, on a mortgagee taking possession of the mortgaged property during the continuance of the mortgage and it shall, unless the land has been sold in execution of an order made under sub-section (3) of section 60, restore possession thereof to the mortgagor or the person claiming through him, as the case may be, on the expiry of the period fixed by the Registrar, or earlier on full discharge of the amount due.

Execution of  
order of sale  
made by the  
Registrar.

**63.** (1) An order for sale made under section 60 shall be executed, so far as may be, in accordance with the procedure laid down in, and subject to the provisions of, sections 171 to 173, 175, 179 to 183, 183A, 184 to 187, 187A, and 188 of the Mysore Land Revenue Code, 1888, for the sale of immovable property, as if the arrears due to the Bank were arrears of land revenue.

(2) When the sale is confirmed by the Deputy Commissioner in due course, no other person having any interest in the land sold shall, notwithstanding anything contained in the Transfer of Property Act, 1918, or any other law for the time being in force, have any claim against the purchaser or in respect of such land, if such interest has been acquired subsequent to the mortgage of the land to the Bank.

(3) When the sale is confirmed, the proceeds of the sale shall be applied first to the defraying of the expenses of the sale proceedings and next to the payment to the Bank of the amount due to it together with interest and costs, and the surplus, if any, shall be paid to the mortgagor or other person claiming through him, as the case may be.

(4) When there is any dispute as to the right to receive the surplus, such surplus shall not be paid to any person except under the order of a Civil Court.

Registrar  
when to take  
an account.

**64.** (1) When any dispute arises regarding the amount paid to the Bank in reduction or discharge of a loan or when it is alleged that the Bank has failed to perform the duties imposed upon it by section 62, the Registrar shall, upon application made to him in that behalf by the borrower or other person claiming through him, take an account, or order that an account be taken, of what is due to the Bank.

(2) The loss, if any, that is proved to have been occasioned by the failure of the aforesaid duties, shall be debited to such account.

(3) If, upon taking the account as aforesaid, the Registrar finds that nothing is due to the Bank or that the Bank has been over-paid, he shall order the Bank—

(a) to deliver up to the applicant all documents in its custody or power relating to the property mortgaged to it as security for the loan,

(b) to pay to the applicant the amount which may be found due to him, and

(c) to restore possession of the mortgaged property to the applicant,

as the circumstances of the case may require.

(4) The amount ordered to be paid under clause (b) of sub-section (3) shall be recoverable as an arrear of land revenue.

65. Orders for possession and restoration of possession, made under section 60 and section 64, shall be executed by the Deputy Commissioner, so far as may be, in accordance with the procedure laid down in section 209 of the Mysore Land Revenue Code, 1888.

Execution of orders for possession and restoration of possession.

66 [a] (1) (i) If any instalment payable under a mortgage executed in favour of a Bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the committee of the Bank may, in addition to any other remedy available to the Bank, apply to the Registrar or to any person appointed by the Government under section 4 to assist the Registrar, for the recovery of such instalment or part by distraint and sale of the produce of the mortgaged land including the standing crops thereon. On receipt of such application, the Registrar or such person may, notwithstanding anything contained in the Transfer of Property Act, 1918, take such action as is necessary to distrain and sell such produce :—

Distraint and sale of produce when to be made.

Provided that no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

(ii) The distress shall not be excessive; the value of the property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the costs of the sale.

(2) (i) Before or at the time when a distraint is made under sub-section (1), the distrainer shall serve or cause to be served upon the defaulter a written demand specifying the amount for which the distraint is made.

Distraint how to be effected.



(ii) The demand shall be dated and signed by the distrainer and shall be served upon the defaulter by delivering a copy to him or to some adult male member of his family at his usual place of abode or to his authorised agent, or when such service cannot be effected, by affixing a copy of the demand on some conspicuous part of his abode and of his land.

(3) (i) If, within fifteen days from the date of service of the demand referred to in sub-section (2), the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction the distrained property or such part thereof as may in his opinion be necessary to satisfy the demand together with the expenses of the distraint and the costs of the sale.

(ii) From the proceeds of such sale, a deduction shall be made of the costs of the sale not exceeding  $6\frac{1}{4}$  per centum of the demand.

(iii) From the balance shall be deducted the expenses incurred by the distrainer on account of the distraint.

(iv) The remainder, if any, shall be applied to the discharge of the amount for which the distraint was made.

(v) The surplus, if any, shall be delivered to the person whose property has been sold and he shall be given a receipt for the amount discharged from the proceeds of the sale.

Power of  
Government  
to make  
rules.

(4) The Government may make rules—

(i) for the manner of effecting distraint ;

(ii) for the custody, preservation and sale of the distrained property ;

(iii) for the investigation of claims by persons other than the defaulter to any right or interest in the distrained property ; and for the postponement of the sale pending such investigation ;

(iv) for the immediate sale of perishable articles ; and

(v) generally for the purpose of carrying out the provisions of this section.

Powers of  
Bank in case  
the mort-  
gaged  
property is  
wholly or  
partially  
destroyed or  
the security  
is rendered  
insufficient.

67. Where any property mortgaged to a Bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the Bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the committee shall be

entitled to take action against the mortgagor, under the provisions of section 66 for the recovery of such portion of the loan.

*Explanation.*—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the by-laws of the Bank.

**68.** (1) The Board or the Registrar may direct the committee of a Bank to take action against a defaulter under section 66 or section 67 and if the committee neglects or fails to do so, the Board or the Registrar may take such action.

Power of Board or of Registrar to direct distress and sale of produce and the sale of mortgaged property, etc.

(2) (a) Where such action is taken by the Board, the provisions of this Act and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the Bank and to its committee in the said provisions were references to the Central Bank and the Board respectively.

(b) Where such action is taken by the Registrar, the provisions of this Act and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the Bank or to its committee in the said provisions were references to the Registrar.

**69.** Notwithstanding anything contained in the Transfer of Property Act, 1918, the duration of any lease executed by a mortgagor of property mortgaged to a Bank after the execution of the mortgage shall in no case exceed five years.

Mortgagor's power to lease.

**70.** Notwithstanding anything contained in the Mysore Insolvency Act, 1925, a mortgage executed in favour of a Bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the Bank a preference over the other creditors of the mortgagor.

Mortgage not to be questioned on insolvency of mortgagor.

**71.** A mortgage executed in favour of a Bank after the commencement of this Act shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Act, 1890, granted after the execution of the mortgage.

Priority of mortgage over claims arising under the Land Improvement Loans Act.

**72.** Where a mortgage is executed in favour of a Bank for payment of prior debts of the mortgagor, the Bank may, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1918, by

Right of Bank to pay prior debts of mortgagor.

notice in writing, require any person to whom any such debt is due to receive payment of such debt or part thereof from the Bank within such period as may be specified in the notice. If any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice :

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the Bank towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

Registration of documents executed on behalf of a Bank or of the Central Bank.

73. (1) Notwithstanding anything contained in the Mysore Registration Act, 1903, it shall not be necessary for any director, secretary or other officer of a Bank to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such director, secretary or officer for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

Power of a Primary Bank to receive moneys and grant valid discharges notwithstanding assignment of mortgage deeds to the Central Bank.

74. Notwithstanding the transfer of a mortgage by a Primary Bank to the Central Bank—

(a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or the Registrar and communicated to the mortgagor, be payable to the Primary Bank, and such payment shall be as valid as if the mortgage had not been so transferred ; and

(b) the Primary Bank shall, in the absence of any specific direction to the contrary issued by the Board or the Registrar and communicated to the Primary Bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

Special provision for mortgages executed by managers of joint Hindu families.

75. (1) Where a mortgage executed in favour of a Bank either before or after the passing of this Act is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members thereof whether major or minor,

the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party raising it.

(2) For the purpose of this section, the improvement of agricultural land or of the methods of cultivation shall not be regarded as a purpose not binding on a member of the joint Hindu family.

76. Whenever under the special provisions relating to Co-operative Land Mortgage Banks, notice is required to be given to any person in writing, it shall be sufficient to send such notice by registered post.

77. The provisions of sections 102 and 103 of the Transfer of Property Act, 1918, and of any rules made by the High Court under section 104 of that Act for carrying out the purposes of the said sections, shall apply, so far as may be, in respect of all notices to be served under the special provisions relating to Co-operative Land Mortgage Banks.

78. At any sale of movable property held under the provisions of section 66 in order to recover any money due to a Bank, no director, secretary or other officer of such Bank or of the Central Bank (except on behalf of the Bank of which he is director, secretary or officer,) and no sale officer or other person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest in such property.

**79.** The Board may, if it thinks fit, delegate all or any of its powers under section 68 to an executive committee constituted by it and consisting of two or more of its members.

**80.** The Government may make rules to carry out Rules.  
the foregoing special provisions relating to Co-operative  
Land Mortgage Banks and in particular such rules may  
provide for—

$[a]$                       \*                      \*

(a) the powers to be exercised and the duties to be performed by the trustee and the form of investment or deposit of the funds credited to his account in trust for the redemption of debentures ;

[b] (b) The mutual rights and obligations of primary Land Mortgage Banks and Central Land Mortgage Banks;

[a] Clause (u) and certain words in clause (d) were deleted by section 25 of Act VI of 1933.

[b] Substituted by section 25 of Act VI of 1933.

(c) the manner of selecting representatives of debenture-holders for appointment to the Committee.

Application  
of other  
provisions of  
Act.

81. The other provisions of this Act shall apply to Co-operative Land Mortgage Banks [c] in so far as they are not inconsistent with the foregoing special provisions.

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[c] Certain words were deleted by section 26 of Act VI of 1933.

ACT No. X OF 1918.

*(Received the assent of His Highness the Maharaja  
on the 8th day of October 1918).*

**Act further to amend the Indian Evidence Act, 1872.**

Whereas it is expedient further to amend the Indian Evidence Act, 1872, as in force in Mysore ; His Highness the Maharaja is pleased to enact as follows :—

In exception 2 to section 91 after the words “ British India ” the words “ or in the Civil and Military Station, Bangalore, or within Mysore ” shall be inserted.

Amendment  
of exception  
2 to section  
91.

## ACT No. XII OF 1918.

*(Received the assent of His Highness the Maharaja  
on the 2nd day of December 1918.)*

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**Act to amend the Act for avoiding loss by the default  
of Public Accountants, No. 1 of 1893.**

Amendment  
of section 3.

Whereas it is expedient to amend the Act for avoiding loss by the default of Public Accountants, No. I of 1893, His Highness the Maharaja is pleased to enact as follows :—

In section 3 of the Act before the words “in the territories of Mysore” occurring in the second sentence thereof, the following shall be inserted “who is working or who has given security.”

## ACT I OF 1919.

*(Received the assent of His Highness the Maharaja  
on the 15th day of February 1919.)*

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**Act further to amend the Mysore Land Revenue  
Code, 1888.**

Whereas it is expedient further to amend the Mysore Land Revenue Code, 1888; His Highness the Maharaja is pleased to enact as follows :—

To section 120, the following new clause shall be added as clause (2) the present clause being numbered as clause (1).

Preamble.

Addition of a new clause to section 120.

Management of lands, the property, of the Palace.

“(2) In respect of lands, the property of the Palace, the Deputy Commissioner, in the case of lands under the management of Government, and the Palace Controller or other officer nominated by Government in this behalf, in the case of lands under the direct management of the Palace, may exercise all the powers conferred on a Deputy Commissioner by this Act in respect of unalienated land ”.



## ACT III OF 1919.

*(Received the assent of His Highness the Maharaja  
on the 7th day of May 1919.)*

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**Act further to amend the Tank Panchayet Act, 1911.**

Whereas it is expedient further to amend the Tank Panchayet Act, 1911; His Highness the Maharaja is pleased to enact as follows :—

Amendment  
of section 6  
of the Act.

In section 6 of the Act, for the words “not less than one-fourth or more than one-half” the words “not exceeding one-fourth” shall be substituted.

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# **The Mysore Easements Act.**

(No. IV of 1919.)

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## ACT No. IV OF 1919.

*(Received the assent of His Highness the Maharaja  
on the 7th day of May 1919.)*

**An Act to define and amend the law relating to  
Easements and Licenses.**

## Preamble.

Whereas it is expedient to define and amend the law relating to Easements and Licenses ; His Highness the Maharaja is pleased to enact as follows :—

## PRELIMINARY.

## Short title.

1. (1) This Act may be called the Mysore Easements Act ;

## Extent.

(2) It extends to the whole of Mysore ; and

Commence-  
ment.

(3) It shall come into force on the first day of July 1919.

## Savings.

2. Nothing herein contained shall be deemed to affect any law not hereby expressly repealed, or to derogate from—

(a) any right of the Government to regulate the collection, retention and distribution of the water of rivers and streams flowing in natural channels, and of natural lakes and ponds, or of the water flowing, collected, retained or distributed in or by any channel or other work constructed at the public expense for irrigation ;

(b) any customary or other right (not being a license) in or over immovable property which the Government, the public or any person may possess irrespective of other immovable property ; or

(c) any right acquired, or arising out of a relation created, before this Act comes into force.

Repeal of  
Act IV of  
1911,  
sections 26  
and 27.

3. Sections 26 and 27 of the Mysore Limitation Act, 1911, and the definition of “ easement ” contained in that Act, are repealed. All references in any Act or Regulation to the said sections or to sections 26 and 27 of Act No. XV of 1877, shall be read as made to sections 15 and 16 of this Act,

## CHAPTER I.

## OF EASEMENTS GENERALLY.

4. An easement is a right which the owner or occupier of certain land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own.

"Easement" defined.

The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and the owner or occupier thereof, the dominant owner ; the land on which the liability is imposed is called the servient heritage, and the owner or occupier thereof, the servient owner.

Dominant and servient heritages and owners.

*Explanation.*—In the first and second clauses of this section, the expression "land" includes also things permanently attached to the earth : the expression "beneficial enjoyment" includes also possible convenience, remote advantage, and even a mere amenity ; and the expression "to do something" includes removal and appropriation by the dominant owner for the beneficial enjoyment of the dominant heritage, of any part of the soil of the servient heritage or anything growing or subsisting thereon.

*Illustrations.*

(a) A, as the owner of a certain house, has a right of way thither over his neighbour B's land for purposes connected with the beneficial enjoyment of the house. This is an easement.

(b) A, as the owner of a certain house, has the right to go on his neighbour B's land and to take water for the purposes of his household out of a spring therein. This is an easement.

(c) A, as the owner of a certain house, has the right to conduct water from B's stream to supply the fountains in the garden attached to the house. This is an easement.

(d) A, as the owner of a certain house and farm, has the right to graze a certain number of his own cattle on B's field or to take for the purpose of being used in the house, by himself, his family, guests, lodgers and servants, water, or fish out of C's tank, or timber out of D's wood, or to use, for the purpose of manuring his land, the leaves which have fallen from the trees on E's land. These are easements.

(e) A dedicates to the public the right to occupy the surface of certain land for the purpose of passing and re-passing. This right is not an easement.

(f) A is bound to cleanse a water-course running through his land and keep it free from obstruction for the benefit of B, a lower riparian owner. This is not an easement.

Continuous and discontinuous, apparent and non-apparent easements.

5. Easements are either continuous or discontinuous, apparent or non-apparent.

A continuous easement is one whose enjoyment is, or may be, continual without the act of man.

A discontinuous easement is one that needs the act of man for its enjoyment.

An apparent easement is one, the existence of which is shown by some permanent sign which, upon careful inspection by a competent person, would be visible to him.

A non-apparent easement is one that has no such sign.

#### ILLUSTRATIONS.

(a) A right, annexed to B's house to receive light by the windows without obstruction by his neighbour A. This is a continuous easement.

(b) A right of way annexed to A's house over B's land. This is a discontinuous easement.

(c) Rights annexed to A's land to lead water thither across B's land by an aqueduct and to draw off water thence by a drain. The drain would be discovered upon careful inspection by a person conversant with such matters. These are apparent easements.

(d) A right, annexed to A's house to prevent B from building on his own land. This is a non-apparent easement.

Easement for limited time or on condition.

6. An easement may be permanent, or for a term of years or other limited period, or subject to periodical interruption, or exercisable only at a certain place or at certain times, or between certain hours, or for a particular purpose or on condition that it shall commence or become void or voidable on the happening of a specified event or the performance or non-performance of a specified act.

Easements restrictive of certain rights.

7. Easements are restrictions of one or other of the following rights (namely) :—

Exclusive right to enjoy.

(a) the exclusive right of every owner of immovable property (subject to any law for the time being in force) to enjoy and dispose of the same and all products thereof and accessions thereto ;

Rights to advantages arising from situation.

(b) the right of every owner of immovable property (subject to any law for the time being in force) to enjoy without disturbance by another ; the natural advantages arising from its situation.

#### ILLUSTRATIONS OF THE RIGHTS ABOVE REFERRED TO.

(a) The exclusive right of every owner of land in a town to build on such land, subject to any Municipal law for the time being in force.

(b) The right of every owner of land that the air passing thereto shall not be unreasonably polluted by other persons.

(c) The right of every owner of a house that, his physical comfort shall not be interfered with materially and unreasonably, by noise or vibration caused by any other person.

(d) The right of every owner of land to so much light and air as pass vertically thereto.

(e) The right of every owner of land that such land, in its natural condition, shall have the support naturally rendered by the subjacent soil of another person.

*Explanation.*—Land is in its natural condition when it is not excavated and not subjected to artificial pressure ; and the “subjacent and adjacent soil” mentioned in this illustration means such soil only as in its natural condition would support the dominant heritage in its natural condition.

(f) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

(g) The right of every owner of land to collect and dispose within his own limits of all water under the land which does not pass in a defined channel and all water on its surface which does not pass in a defined channel.

(h) The right of every owner of land that the water of every natural stream which passes by, through or over his land in a defined natural channel shall be allowed by other persons to flow within such owner’s limits without interruption and without material alteration in quantity, direction, force, or temperature : the right of every owner of land abutting on a natural lake or pond into or out of which a natural stream flows, that the water of such lake or pond shall be allowed by other persons to remain within such owner’s limits without material alteration in quantity or temperature.

(i) The right of every owner of upper land that water, naturally rising in, or falling on, such land and not passing in defined channels, shall be allowed by the owner of adjacent lower land to run naturally thereto.

(j) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep ; and the right of every such owner to use and consume the water for irrigating such land, and for the purposes of any manufactory situate thereon, provided that he does not thereby cause material injury to other like owners.

*Explanation.*—A natural stream is a stream, whether permanent or intermittent, tidal or tideless, on the surface of land or underground, which flows by the operation of nature only and in a natural and known course.

## CHAPTER II.

### THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

8. An easement may be imposed by any one in the circumstances, and to the extent, in and to which he may transfer his interest in the heritage on which the liability is to be imposed.

Who may  
impose  
easements.



*Illustrations.*

(a) A is tenant of B's land under a lease for an unexpired term of twenty years, and has power to transfer his interest under the lease. A may impose an easement on the land to continue during the time that the lease exists or for any shorter period.

(b) A is tenant for his life of certain land with remainder to B absolutely. A cannot, unless with B's consent, impose an easement thereon which will continue after the determination of his life-interest.

(c) A, B and C are co-owners of certain land. A cannot without the consent of B and C, impose an easement on the land or on any part thereof.

(d) A and B are lessees of the same lessor, A of a field X for a term of five years, and B of a field Y for a term of ten years. A's interest under his lease is transferable; B's is not. A may impose on X, in favour of B, a right of way terminable with A's lease.

Servient  
owners.

9. Subject to the provisions of section 8, a servient owner may impose on the servient heritage, any easement that does not lessen the utility of the existing easement. But he cannot, without the consent of the dominant owner, impose an easement on the servient heritage which would lessen such utility.

*Illustrations.*

(a) A has, in respect of his mill, a right to the uninterrupted flow thereto, from sunrise to noon, of the water of B's stream. B may grant to C the right to divert the water of the stream from noon to sunset: provided that A's supply is not thereby diminished.

(b) A has, in respect of his house, a right of way over B's land. B may grant to C, as the owner of a neighbouring farm, the right to feed his cattle on the grass growing on the way: provided that A's right of way is not thereby obstructed.

Lessor and  
mortgagor.

10. Subject to the provisions of section 8, a lessor may impose, on the property leased any easement that does not derogate from the rights of the lessee as such, and a mortgagor may impose, on the property mortgaged, any easement that does not render the security insufficient. But a lessor or mortgagor cannot, without the consent of the lessee or mortgagee, impose any other easement on such property, unless it be to take effect on the termination of the lease or the redemption of the mortgage.

*Explanation.*—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

Lessee.

11. No lessee or other person having a derivative interest may impose on the property held by him as such an easement to take effect after the expiration of his own

interest, or in derogation of the right of the lessor or the superior proprietor.

12. An easement may be acquired by the owner of the immovable property for the beneficial enjoyment of which the right is created, or, on his behalf, by any person in possession of the same. Who may acquire easements.

One of two or more co-owners of immovable property may, as such, with or without the consent of the other or others, acquire an easement for the beneficial enjoyment of such property.

No lessee of immovable property can acquire, for the beneficial enjoyment of other immovable property of his own, an easement in or over the property comprised in his lease.

13. Where one person transfers or bequeaths immovable property to another— Easements of necessity and quasi-easements.

(a) If an easement in other immovable property of the transferor or testator is necessary for enjoying the subject of the transfer or bequest, the transferee or legatee shall be entitled to such easement ; or

(b) if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee or legatee shall, unless a different intention is expressed or necessarily implied, be entitled to such easement ;

(c) if an easement in the subject of the transfer or bequest is necessary for enjoying other immovable property of the transferor or testator, the transferor or the legal representative of the testator shall be entitled to such easement ; or

(d) if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor, or the legal representative of the testator shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

Where a partition is made of the joint property of several persons,—

(e) if an easement over the share of one of them is necessary for enjoying the share of another of them, the latter shall be entitled to such easement, or

(f) if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when the partition took effect, he shall, unless a

different intention is expressed or necessarily implied, be entitled to such easement.

The easements mentioned in this section, clauses (a), (c) and (e), are called easements of necessity.

Where immovable property passes by operation of law, the persons from and to whom it so passes are, for the purpose of this section, to be deemed, respectively, the transferor and transferee.

### *Illustrations.*

(a) A sells B a field then used for agricultural purposes only. It is inaccessible except by passing over A's adjoining land or by trespassing on the land of a stranger. B is entitled to a right of way, for agricultural purposes only, over A's adjoining land to the field sold.

(b) A, the owner of two fields, sells one to B, and retains the other. The field retained was, at the date of the sale, used for agricultural purposes only and is inaccessible except by passing over the field sold to B. A is entitled to a right of way, for agricultural purposes only, over B's field to the field retained.

(c) A sells B a house with windows overlooking A's land which A retains. The light which passes over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. B is entitled to the light, and A cannot afterwards obstruct it by building on his land.

(d) A sells B a house with windows overlooking A's land. The light passing over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. Afterwards A sells the land to C. Here C cannot obstruct the light by building on the land, for he takes it subject to the burdens to which it was subject in A's hands.

(e) A is the owner of a house and adjoining land. The house has windows overlooking the land. A simultaneously sells the house to B and the land to C. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. Here A impliedly grants B a right to the light, and C takes the land subject to the restriction that he may not build so as to obstruct such light.

(f) A is the owner of a house and adjoining land. The house has windows overlooking the land. A, retaining the house, sells the land to B, without expressly reserving any easement. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. A is entitled to the light, and B cannot build on the land so as to obstruct such light.

(g) A, the owner of a house, sells B a factory built on adjoining land. B is entitled, as against A, to pollute the air, when necessary, with smoke and vapours from the factory.

(h) A, the owner of two adjoining houses, Y and Z, sells Y to B, and retains Z. B is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Y as it was enjoyed when the sale took effect, and A is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Z, as it was enjoyed when the sale took effect.

(i) A, the owner of two adjoining buildings, sells one to B, retaining the other. B is entitled to a right to lateral support from A's building, and A is entitled to a right to lateral support from B's building.

(j) A, the owner of two adjoining buildings, sells one to B and the other to C. C is entitled to lateral support from B's building, and B is entitled to lateral support from C's building.

(k) A grants lands to B for the purpose of building a house thereon. B is entitled to such amount of lateral and subjacent support from A's land as is necessary for the safety of the house.

(l) Under the Land Acquisition Act, 1894, a Railway Company compulsorily acquires a portion of B's land for the purpose of making a siding. The Company is entitled to such amount of lateral support from B's adjoining land as is essential for the safety of the siding.

(m) Owing to the partition of joint property, A becomes the owner of an upper room in a building, and B becomes the owner of the portion of the building immediately beneath it. A is entitled to such amount of vertical support from B's portion as is essential for the safety of the upper room.

(n) A lets a house and grounds to B for a particular business. B has no access to them other than by crossing A's land. B is entitled to a right of way over that land suitable to the business to be carried on by B in the house and grounds.

14. When a right to a way of necessity is created under section 13, the transferor, the legal representative of the testator, or the owner of the share over which the right is exercised, as the case may be, is entitled to set out the way ; but it must be reasonably convenient for the dominant owner.

Direction of  
way of  
necessity.

When the person so entitled to set out the way refuses or neglects to do so, the dominant owner may set it out.

15. Where the access and use of light or air, to and for any building have been peaceably enjoyed therewith, as an easement, without interruption, and for twenty years, and where support from one person's land, or things affixed thereto, has been peaceably received by another person's land subjected to artificial pressure, or by things affixed thereto, as an easement, without interruption, and for twenty years,

Acquisition  
by prescrip-  
tion.

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, support or other easement shall be absolute.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

*Explanation I.*—Nothing is an enjoyment within the meaning of this section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed, and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease.

*Explanation II.*—Nothing is an interruption within the meaning of this section, unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

*Explanation III.*—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this section.

*Explanation IV.*—In the case of an easement to pollute water, the said period of twenty years begins when the pollution first prejudices perceptibly the servient heritage.

When the property over which a right is claimed under this section belongs to Government, this section shall be read as if for the words “twenty years” the words “sixty years” were substituted.

### *Illustrations.*

(a) A suit is brought in 1883 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him claiming title thereto as an easement and as of right, without interruption, from 1st January 1862 to 1st January 1882. The plaintiff is entitled to judgment.

(b) In a like suit, the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that for a year of that time the plaintiff was entitled to possession of the servient heritage as lessee thereof and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed “as an easement” for twenty years.

(c) In a like suit, the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed “as of right” for twenty years.

16. Provided that, when any land upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land.

Exclusion in Favour of reversioner of servient heritage.

### *Illustration.*

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years, but B shows that during ten of these years C had a life-interest in the land, that on C's death, B became entitled to the land, and that within two years after C's death, he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

17. Easements acquired under section 15 are said to be acquired by prescription, and are called prescriptive rights.

Rights which cannot be acquired by prescription.

None of the following rights can be so acquired :—

(a) a right which would tend to the total destruction of the subject of the right, or the property on which, if the acquisition were made, liability would be imposed ;

(b) a right to the free passage of light or air to an open space of ground ;

(c) a right to surface-water not flowing in a stream and not permanently collected in a pool, tank or otherwise ;

(d) a right to under-ground water not passing in a defined channel.

18. An easement may be acquired in virtue of a local custom. Such easements are called customary easements.

Customary easements.

### *Illustrations.*

(a) By the custom of a certain village, every cultivator of village land is entitled, as such, to graze his cattle on the common pasture. A, having become the tenant of a plot of uncultivated land in the village, breaks up and cultivates that plot. He thereby acquires an easement to graze his cattle in accordance with the custom.

(b) By the custom of a certain town, no owner or occupier of a house can open a new window therein so as substantially to invade his neighbour's privacy. A builds a house in the town near B's house. A thereupon acquires an easement that B shall not open new windows

in his house so as to command a view of the portions of A's house which are ordinarily excluded from observation, and B acquires a like easement with respect to A's house.

Transfer of  
dominant  
heritage  
passes  
easement.

19. Where the dominant heritage is transferred or devolves, by act of parties or by operation of law, the transfer or devolution shall, unless a contrary intention appears, be deemed to pass the easement to the person in whose favour the transfer or devolution takes place.

### *Illustration.*

A has certain land to which a right of way is annexed. A lets the land to B for twenty years. The right of way vests in B and his legal representative so long as the lease continues.

## CHAPTER III.

### THE INCIDENTS OF EASEMENTS.

Rules  
controlled by  
contract or  
title.

20. The rules contained in this chapter are controlled by any contract between the dominant and servient owners relating to the servient heritage, and by the provisions of the instrument or decree, if any, by which the easement referred to was imposed.

Incidents of  
customary  
easements.

And when any incident of any customary easement is inconsistent with such rules, nothing in this chapter shall affect such incident.

Bar to use  
unconnected  
with  
enjoyment.

21. An easement must not be used for any purpose not connected with the enjoyment of the dominant heritage.

### *Illustrations.*

(a) A, as owner of a farm Y, has a right of way over B's land to Y. Lying beyond Y, A has another farm Z, the beneficial enjoyment of which is not necessary for the beneficial enjoyment of Y. He must not use the easement for the purpose of passing to and from Z.

(b) A, as owner of a certain house, has a right of way to and from it. For the purpose of passing to and from the house, the right may be used, not only by A, but by the members of his family, his guests, lodgers, servants, workmen, visitors and customers; for this is a purpose connected with the enjoyment of the dominant heritage. So, if A lets the house, he may use the right of way for the purpose of collecting the rent and seeing that the house is kept in repair.

Exercise of  
easement.

Confinement  
of exercise of  
easement.

22. The dominant owner must exercise his right in the mode which is least onerous to the servient owner; and when the exercise of an easement can without detriment to the dominant owner be confined to a determinate part of the servient heritage, such exercise shall, at the request of the servient owner, be so confined.

*Illustrations.*

(a) A has a right of way over B's fields ; A must enter the way at either end, and not at any intermediate point.

(b) A has a right annexed to his house to cut thatching grass in B's swamp. A, when exercising his easement, must cut the grass so that the plants may not be destroyed.

23. Subject to the provisions of section 22, the dominant owner may, from time to time, alter the mode and place of enjoying the easement, provided that he does not thereby impose any additional burden on the servient heritage.

Right to alter mode of enjoyment.

*Exception.*—The dominant owner of a right of way cannot vary his line of passage at pleasure, even though he does not thereby impose any additional burden on the servient heritage.

*Illustrations.*

(a) A, the owner of a saw-mill, has a right to a flow of water sufficient to work the mill. He may convert the saw-mill into a corn-mill, provided that it can be worked by the same amount of water.

(b) A has a right to discharge on B's land the rain-water from the eaves of A's house. This does not entitle A to advance his eaves if, by so doing, he imposes a greater burden on B's land.

(c) A, as the owner of a paper-mill, acquires a right to pollute a stream by pouring in the refuse—liquor produced by making in the mill paper from rags. He may pollute the stream by pouring in similar liquor produced by making in the mill paper by a new process from bamboos, provided that he does not substantially increase the amount, or injuriously change the nature of the pollution.

(d) A, a riparian owner, acquires as against the lower riparian owners, a prescriptive right to pollute a stream by throwing sawdust into it. This does not entitle A to pollute the stream by discharging into it poisonous liquor.

24. The dominant owner is entitled, as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement ; but such acts must be done at such time and in such manner as, without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible ; and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage.

Right to do acts to secure enjoyment.

Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights.

Accessory rights.

*Illustrations.*

(a) A has an easement to lay pipes in B's land to convey water to A's cistern. A may enter and dig the land in order to mend the pipes, but he must restore the surface to its original state.



(b) A has an easement of a drain through B's land. The sewer with which the drain communicates is altered. A may enter upon B's land and alter the drain, to adapt it to the new sewer, provided that he does not thereby impose any additional burden on B's land.

(c) A, as owner of a certain house, has a right of way over B's land. The way is out of repair, or a tree is blown down and falls across it. A may enter on B's land and repair the way or remove the tree from it.

(d) A, as owner of a certain field, has a right of way over B's land. B renders the way impossible. A may deviate from the way and pass over the adjoining land of B, provided that the deviation is reasonable.

(e) A, as owner of a certain house, has a right of way over B's field. A may remove rocks to make the way.

(f) A has an easement of support from B's wall. The wall gives way. A may enter upon B's land and repair the wall.

(g) A has an easement to have his land flooded by means of a dam in B's stream. The dam is half swept away by an inundation. A may enter upon B's land and repair the dam.

Liability for expenses necessary for preservation of easement.

25. The expenses incurred in constructing works or making repairs, or doing any other act necessary for the use or preservation of an easement, must be defrayed by the dominant owner.

Liability for damage from want of repair.

26. Where an easement is enjoyed by means of an artificial work, the dominant owner is liable to make compensation for any damage to the servient heritage arising from the want of repair of such work.

Servient owner not bound to do anything.

27. The servient owner is not bound to do anything for the benefit of the dominant heritage, and he is entitled, as against the dominant owner, to use the servient heritage in any way consistent with the enjoyment of the easement; but he must not do any act tending to restrict the easement or to render its exercise less convenient.

### *Illustrations.*

(a) A, as owner of a house, has a right to lead water and send sewage through B's land. B is not bound as servient owner to clear the water-course or scour the sewer.

(b) A grants a right of way through his land to B as owner of a field. A may feed his cattle on grass growing on the way, provided that B's right of way is not thereby obstructed; but he must not build a wall at the end of his land so as to prevent B from going beyond it, nor must he narrow the way so as to render the exercise of the right less easy than it was at the date of the grant.

(c) A, in respect of his house, is entitled to an easement of support from B's wall. B is not bound as servient owner to keep the wall standing and in repair. But he must not pull down or weaken the wall so as to make it incapable of rendering the necessary support.

(d) A, in respect of his mill, is entitled to a water-course through B's land. B must not drive stakes so as to obstruct the water-course.

(e) A, in respect of his house, is entitled to a certain quantity of light passing over B's land. B must not plant trees so as to obstruct the passage to A's windows of that quantity of light.

**28.** With respect to the extent of easements and the mode of their enjoyment, the following provisions shall take effect :—

An easement of necessity is co-extensive with the necessity as it existed when the easement was imposed.

The extent of any other easement and the mode of its enjoyment must be fixed with reference to the probable intention of the parties, and the purpose for which the right was imposed or acquired.

In the absence of evidence as to such intention and purpose—

(a) a right of way of any one kind does not include a right of way of any other kind :

(b) the extent of a right to the passage of light or air to a certain window, door or other opening, imposed by a testamentary or non-testamentary instrument, is the quantity of light or air that entered the opening at the time the testator died or the non-testamentary instrument was made :

(c) the extent of a prescriptive right to the passage of light or air to a certain window, door or other opening, is that quantity of light or air which was reasonably sufficient, coming through that opening, for the convenient and comfortable use and enjoyment of the house and its beneficial employment as it was enjoyed at the commencement of the prescriptive period :

(d) the extent of a prescriptive right to pollute air or water is the extent of the pollution at the commencement of the period of user on completion of which the right arose : and

(e) the extent of every other prescriptive right and mode of its enjoyment must be determined by the accustomed user of the right.

**29.** The dominant owner cannot, by merely altering or adding to the dominant heritage, substantially increase an easement.

Where an easement has been granted or bequeathed so that its extent shall be proportionate to the extent of the dominant heritage, if the dominant heritage is increased by alluvion, the easement is proportionately increased, and if the dominant heritage is diminished by diluvion, the easement is proportionately diminished.

Save as aforesaid, no easement is affected by any change in the extent of the dominant or the servient heritage.

### *Illustrations.*

(a) A, the owner of a mill, has acquired a prescriptive right to divert to his mill, part of the water of a stream. A alters the machinery of his mill. He cannot thereby increase his right to divert water.

(b) A has acquired an easement to pollute a stream by carrying on a manufacture on its banks by which a certain quantity of foul matter is discharged into it. A extends his works and thereby increases the quantity discharged. He is responsible to the lower riparian owners for injury done by such increase.

(c) A, as the owner of a farm, has a right to take, for the purpose of manuring his farm, leaves which have fallen from the trees on B's land. A buys a field and unites it to his farm. A is not thereby entitled to take leaves to manure this field.

Partition of  
dominant  
heritage.

**30.** Where a dominant heritage is divided between two or more persons, the easement becomes annexed to each of the shares, but not so as to increase substantially the burden of the servient heritage: provided that such annexation is consistent with the terms of the instrument, decree or revenue proceeding (if any) under which the division was made, and, in the case of prescriptive rights, with the user during the prescriptive period.

### *Illustrations.*

(a) A house to which, a right of way by a particular path is annexed, is divided into two parts, one of which is granted to A, the other to B. Each is entitled, in respect of his part, to a right of way by the same path.

(b) A house to which is annexed the right of drawing water from a well to the extent of fifty buckets a day is divided into two distinct heritages, one of which is granted to A, the other to B. A and B are each entitled, in respect of his heritage to draw from the well fifty buckets a day; but the amount drawn by both must not exceed fifty buckets a day.

(c) A, having in respect of his house an easement of light, divides the house into three distinct heritages. Each of these continues to have the right to have its windows unobstructed.

Obstruction  
in case of  
excessive  
user.

**31.** In the case of excessive user of an easement, the servient owner may, without prejudice to any other remedies to which he may be entitled, obstruct the user, but only on the servient heritage: provided that such user cannot be obstructed when the obstruction would interfere with the lawful enjoyment of the easement.

*Illustration.*

A, having a right to the free passage over B's land of light to four windows six feet by four, increases their size and number. It is impossible to obstruct the passage of light to the new windows without also obstructing the passage of light to the ancient windows. B cannot obstruct the excessive user.

## CHAPTER IV.

## THE DISTURBANCE OF EASEMENTS.

**32.** The owner or occupier of the dominant heritage is entitled to enjoy the easement without disturbance by any other person.

Right to  
enjoyment  
without  
disturbance.

*Illustration.*

A, as owner of a house, has a right of way over B's land. C unlawfully enters on B's land, and obstructs A in his right of way. A may sue C for compensation, not for the entry, but for the obstruction.

**33.** The owner of any interest in the dominant heritage, or the occupier of such heritage, may institute a suit for compensation for the disturbance of the easement or of any right accessory thereto: provided that the disturbance has actually caused substantial damage to the plaintiff.

Suit for  
disturbance  
of easement.

*Explanation I.*—The doing of any act likely to injure the plaintiff by affecting the evidence of the easement, or by materially diminishing the value of the dominant heritage, is substantial damage within the meaning of this section and section 34.

*Explanation II.*—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial within the meaning of this section, unless it falls within the first explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on the business, if any, which was carried on at the commencement of the prescriptive period in the dominant heritage as beneficially as he had done previous to instituting the suit.

*Explanation III.*—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

*Illustrations.*

(a) A places a permanent obstruction in a path over which B, as tenant of C's house has a right of way. This is substantial damage to C, for it may affect the evidence of his reversionary right to the easement.

(b) A, as owner of a house, has a right to walk along one side of B's house. B builds a verandah overhanging the way about 10 feet from the ground, and so as not to occasion any inconvenience to foot-passengers using the way. This is not substantial damage to A.

When cause  
of action  
arises for  
removal of  
support.

**34.** The removal of the means of support to which a dominant owner is entitled does not give rise to a right to recover compensation, unless and until substantial damage is actually sustained.

Injunction to  
restrain  
disturbance.

**35.** Subject to the provisions of the Specific Relief Act, 1877, sections 52 to 57 (both inclusive), an injunction may be granted to restrain the disturbance of an easement—

(a) if the easement is actually disturbed,—when compensation for such disturbance might be recovered under this chapter ;

(b) if the disturbance is only threatened or intended,—when the act threatened or intended must necessarily, if performed, disturb the easement.

Abatement of  
obstruction of  
easement.

**36.** Notwithstanding the provisions of section 24, the dominant owner cannot himself abate a wrongful obstruction of an easement.

## CHAPTER V.

THE EXTINCTION, SUSPENSION AND REVIVAL  
OF EASEMENTS.

Extinction  
by dissolu-  
tion of right  
of servient  
owner.

**37.** When, from a cause which preceded the imposition of an easement, the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished.

*Exception.*—Nothing in this section applies to an easement lawfully imposed by a mortgagor in accordance with section 10.

*Illustrations.*

(a) A transfers Sultanpur to B on condition that he does not marry C. B imposes an easement on Sultanpur. Then B marries C. B's interest in Sultanpur ends, and with it the easement is extinguished.

(b) A, in 1860, lets Sultanpur to B for thirty years from the date of the lease. B, in 1861, imposes an easement on the land in favour

of C, who enjoys the easement peaceably and openly as an easement without interruption for twenty-nine years. B's interest in Sultanpur then ends, and with it C's easement.

(c) A and B, tenants of C, have permanent transferable interests in their respective holdings. A imposes on his holding an easement to draw water from a tank for the purpose of irrigating B's land. B enjoys the easement for twenty years. Then A's rent falls into arrear and his interest is sold. B's easement is extinguished.

(d) A mortgages Sultanpur to B, and lawfully imposes an easement on the land in favour of C in accordance with the provisions of section 10. The land is sold to D in satisfaction of the mortgage debt. The easement is not thereby extinguished.

**38.** An easement is extinguished when the dominant owner releases it, expressly or impliedly, to the servient owner. Extinction  
by release.

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

An easement may be released as to part only of the servient heritage.

*Explanation I.*—An easement is impliedly released—

(a) where the dominant owner expressly authorizes an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement, and such act is done in pursuance of such authority ;

(b) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future.

*Explanation II.*—Mere non-user of an easement is not an implied release within the meaning of this section.

### *Illustrations.*

(a) A, B and C are co-owners of a house to which an easement is annexed. A, without the consent of B and C, releases the easement. This release is effectual only as against A and his legal representative.

(b) A grants B, an easement over A's land for the beneficial enjoyment of his house. B assigns the house to C ; B then purports to release the easement. The release is ineffectual.

(c) A having the right to discharge his eaves droppings into B's yard, expressly authorizes B to build over this yard to a height which will interfere with the discharge. B builds accordingly. A's easement is extinguished to the extent of the interference.

(d) A, having an easement of light to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(e) A, having a projecting roof by means of which he enjoys an easement to discharge eaves droppings on B's land, permanently alters

the roof, so as to direct the rain-water into a different channel, and discharge it on C's land. The easement is impliedly released.

Extinction by  
revocation.

**39.** An easement is extinguished when the servient owner, in exercise of a power reserved in this behalf, revokes the easement.

Extinction on  
expiration of  
limited  
period or  
happening  
of dissolving  
condition.

**40.** An easement is extinguished where it has been imposed for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled.

Extinction  
on termina-  
tion of  
necessity.

**41.** An easement of necessity is extinguished when the necessity comes to an end.

### *Illustration.*

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

Extinction  
of useless  
easement.

**42.** An easement is extinguished when it becomes incapable of being at any time and under any circumstances beneficial to the dominant owner.

Extinction  
by perma-  
nent change  
in dominant  
heritage.

**43.** Where by any permanent change in the dominant heritage, the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

(a) it was intended for the beneficial enjoyment of the dominant heritage, to whatever extent the easement should be used; or

(b) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it; or

(c) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

Extinction  
on permanent  
alteration of  
servient  
heritage by  
superior  
force.

**44.** An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement:

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage; and the provisions of section 14 apply to such way.

*Illustrations.*

(a) A grants to B, as the owner of a certain house, a right to fish in a river running through A's land. The river changes its course permanently and runs through C's land. B's easement is extinguished.

(b) Access to path over which A has a right of way is permanently cut off by an earthquake. A's right is extinguished.

**45.** An easement is extinguished when either the dominant or the servient heritage is completely destroyed. Extinction  
by destruc-  
tion of either  
heritage.

*Illustration.*

A has a right of way over a strip of land between a cliff and sea, which forms the whole servient heritage. The strip is completely submerged and washed away. The easement is extinguished.

**46.** An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages. Extinction  
by unity of  
ownership.

*Illustrations.*

(a) A, as the owner of a house, has a right of way over B's field. A mortgages his house, and B mortgages his field to C. Then C forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(b) The dominant owner acquires only part of the servient heritage; the easement is not extinguished, except in the case illustrated in section 41.

(c) The servient owner acquires the dominant heritage in connection with a third person: the easement is not extinguished.

(d) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages: the easements are not extinguished.

(e) The joint owners of the dominant heritage jointly acquire the servient heritage: the easement is extinguished.

(f) A single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires one only of the servient heritages. The easement is not extinguished.

(g) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

**47.** A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years. Extinction  
by non-  
enjoyment.

A discontinuous easement is extinguished when, for a like period, it has not been enjoyed as such.

Such period shall be reckoned, in the case of a continuous easement, from the day on which its enjoyment



was obstructed by the servient owner, or rendered impossible by the dominant owner ; and, in the case of a discontinuous easement, from the day on which it was last enjoyed by any person as dominant owner :

Provided that if, in the case of a discontinuous easement, the dominant owner, within such period, registers, under the Mysore Registration Act, 1903, a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration.

Where an easement can be legally enjoyed only at a certain place, or at certain times, or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times, or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a right accessory thereto was enjoyed, or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under this section.

An easement is not extinguished under this section—

- (a) where the cessation is in pursuance of a contract between the dominant and servient owners ;
- (b) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period ; or
- (c) where the easement is a necessary easement.

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous, such rights shall, for the purpose of this section, be deemed to be a single easement.

### *Illustration.*

A has, as annexed to his house, rights of way from the high road thither over the heritages X and Z and the intervening heritage Y. Before the twenty years expire, A exercises his right of way over X. His rights of way over Y and Z are not extinguished.

Extinction of  
accessory  
rights.

48. When an easement is extinguished, the rights (if any) accessory thereto are also extinguished.

*Illustration.*

A has an easement to draw water from B's well. As accessory thereto, he has a right of way over B's land to and from the well. The easement to draw water is extinguished under section 47. The right of way is also extinguished.

**49.** An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein.

*Suspension of easement.*

**50.** The servient owner has no right to require that an easement be continued; and, notwithstanding the provisions of section 26, he is not entitled to compensation for damage caused to the servient heritage in consequence of the extinguishment or suspension of the easement, if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to protect the servient heritage from such damage.

*Servient owner not entitled to require continuance.*

Where such notice has not been given, the servient owner is entitled to compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension.

*Compensation for damage caused by extinguishment.*

*Illustration.*

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years, and during that time the bed of the stream partly fills up. A then abandons his easement, and restores the stream to its ancient course. B's land is consequently flooded. B sues A for compensation for the damage caused by the flooding. It is proved that A gave B a month's notice of his intention to abandon the easement and that such notice was sufficient to enable B, without unreasonable expense, to have prevented the damage. The suit must be dismissed.

**51.** An easement extinguished under section 45 revives (a) when the destroyed heritage is, before twenty years have expired, restored by the deposit of alluvion; (b) when the destroyed heritage is a servient building and before twenty years have expired, such building is rebuilt upon the same site; and (c) when the destroyed heritage is a dominant building and before twenty years have expired, such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage.

*Revival of easements.*

An easement extinguished under section 46 revives when the grant or bequest by which the unity of ownership

was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section 47.

### *Illustration.*

A, as the absolute owner of field Y, has a right of way thither over B's field Z. A obtains from B a lease of Z for twenty years. The easement is suspended so long as A remains lessee of Z. But when A assigns the lease to C, or surrenders it to B, the right of way revives.

## CHAPTER VI.

### LICENSES.

License  
defined.

**52.** Where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immovable property of the grantor, something which would, in the absence of such right be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license.

Who may  
grant license.

**53.** A license may be granted by any one in the circumstances and to the extent in and to which he may transfer his interest in the property affected by the license.

Grant may  
be express or  
implied.

**54.** The grant of a license may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a license.

Accessory  
licenses  
annexed by  
law.

**55.** All licenses necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licenses are called accessory licenses.

### *Illustration.*

A sells the trees growing on his land to B. B is entitled to go on the land and take away the trees.

License  
when  
transferable.

**56.** Unless a different intention is expressed or necessarily implied, a license to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a license cannot be transferred by the licensee or exercised by his servants or agents.

*Illustrations.*

(a) A grants B a right to walk over A's field whenever he pleases. The right is not annexed to any immovable property of B. The right cannot be transferred.

(b) The Government grant B a license to erect and use temporary grain-sheds on Government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein and remove grain therefrom.

**57.** The grantor of a license is bound to disclose to the licensee any defect in the property affected by the license, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not, aware.

Grantor's duty to disclose defects.

**58.** The grantor of a license is bound not to do anything likely to render the property affected by the license dangerous to the person or property of the licensee.

Grantor's duty not to render property unsafe.

**59.** When the grantor of the license transfers the property affected thereby, the transferee is not as such bound by the license.

Grantor's transferee not bound by license.

**60.** A license may be revoked by the grantor, unless—

License when revocable.

(a) it is coupled with a transfer of property and such transfer is in force :

(b) the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution.

**61.** The revocation of a license may be express or implied.

Revocation express or implied.

*Illustrations.*

(a) A, the owner of a field, grants a license to B to use a path across it. A, with intent to revoke the license, locks a gate across the path. The license is revoked.

(b) A, the owner of a field, grants a license to B to stack hay on the field. A lets or sells the field to C. The license is revoked.

**62.** A license is deemed to be revoked—

(a) when from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license :

License when deemed revoked.

(b) when the licensee releases it, expressly or impliedly, to the grantor or his representative :

(c) where it has been granted for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled ;

(*d*) where the property affected by the license is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right :

(*e*) where the licensee becomes entitled to the absolute ownership of the property affected by the license :

(*f*) where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable :

(*g*) where the license is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist :

(*h*) where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee :

(*i*) in the case of an accessory license when the interest or right to which it is accessory ceases to exist.

Licensee's  
right of revo-  
cation.

**63.** Where a license is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property.

Licensee's  
rights on  
eviction.

**64.** Where a license has been granted for a consideration, and the licensee, without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the license, the right for which he contracted, he is entitled to recover compensation from the grantor.

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## **The Mysore Paper Currency Act.**

(*No. V of 1919.*)

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### **CONTENTS.**

#### **SECTIONS.**

1. Short Title, Extent and Commencement.
  2. Currency Note to be legal tender.
  3. Prohibition of issue of Private Bills or Notes payable *to bearer* on demand.
  4. Penalty for issuing such bills or notes.
  5. Repeal.
-

## ACT No. V OF 1919.

*(Received the assent of His Highness the Maharaja  
on the 19th day of May 1919.)*

### The Mysore Paper Currency Act.

Whereas it is expedient to amend the law relating to Paper Currency in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Mysore Paper Currency Act, 1919.

(2) It shall extend to the whole of Mysore; and

(3) It shall come into force on the 5th day of June 1919.

Currency  
Note to be  
legal tender.

2. (2) A Universal Currency Note and any other Currency Note issued within the Madras Circle of issue under the Indian Paper Currency Act, 1871, or the Indian Paper Currency Act, 1910, or any Indian Paper Currency Act for the time being in force in British India shall be a legal tender to the amount expressed in such note in payment or on account of any revenue or other claim to the amount of one rupee and upwards due to the State; or any sum of one rupee and upwards due by the State or by any person in Mysore.

Prohibition  
of issue of  
private bills,  
or notes pay-  
able to bearer  
on demand.

3. No person in Mysore shall draw, accept, make or issue any Bill of Exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, or owe, or take up any sum or sums of money on the bills, hundies or notes, payable to bearer on demand of any such person: Provided that cheques or drafts payable to bearer on demand or otherwise, may be drawn on bankers, shroffs or agents by their customers or constituents, in respect of deposits of money in the hands of those bankers, shroffs or agents and held by them at the credit and disposal of the persons drawing such cheques or drafts.

Penalty for  
issuing such  
bills or notes.

4. (1) Any person contravening the provisions of section 3 shall, on conviction by a Magistrate of the first

class, be punishable with a fine equal to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed.

(2) Every prosecution under this section shall be instituted by a person empowered in this behalf by Government, and all fines imposed may be recovered in the manner prescribed by the Code of Criminal Procedure, 1904.

5. The Notification of the Government of India, <sup>Repeal.</sup> Financial Department, No. 658 (Mint and Currency), dated 7th February 1879, is hereby repealed.

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## ACT No. VII OF 1919.

*(Received the assent of His Highness the Maharaja  
on the 10th day of July 1919.)*

**An Act further to amend the Mysore Land Revenue  
Code, 1888.**

Whereas it is expedient further to amend the Mysore Land Revenue Code, 1888; His Highness the Maharaja is pleased to enact as follows:—

Amendment  
of sec. 20.

1. The second proviso to section 20 shall be omitted.

Amendment  
of sec. 39.

2. In section 39 for the words "Revenue Commissioner" the words "Deputy Commissioner" shall be substituted.

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ACT No. VIII OF 1919.

*(Received the assent of His Highness the Maharaja  
on the 10th day of July 1919.)*

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**An Act to amend the Mysore Village Offices  
Act, 1908.**

Whereas it is expedient to amend the Mysore Village Offices Act, 1908; His Highness the Maharaja is pleased to enact as follows:—

1. In sub-section (1) of section 7 of the Act, the proviso shall be omitted. Amendment  
of sec. 7.

2. To section 8 the following new sub-section shall be added as sub-section (5):—“(5). The Amildar or Deputy Amildar may grant leave to village officers up to three months and appoint substitutes for the period, provided that such appointment shall be communicated to the Assistant Commissioner or the Deputy Commissioner and that such officer may cancel the appointment giving his reasons therefor.” Amendment  
of sec. 8.

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## ACT No. IX OF 1919.

*(Received the assent of His Highness the Maharaja under Section 14 of the Mysore Legislative Council Act, 1907, on the 14th day of July 1919.)*

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### Termination of the Present War (Definition) Act.

Whereas it is expedient to make provision to determine the date of the termination of the present war and for purposes connected therewith; His Highness the Maharaja is pleased to enact as follows:—

Short Title.

1. This Act may be called the Termination of the Present War (Definition) Act, 1919.

Date of termination of present war to be such as may be declared by His Majesty in Council.

2. For the purposes of any provision in any enactment, or in any notification or rule issued or made thereunder and, except when the context otherwise requires, of any provision in any contract, deed or other instrument referring expressly or impliedly, and in whatever form of words, to the present war or the present hostilities,

8 & 9 George V. C. 59.

• (1) the present war shall be treated as having continued to and as having ended on such date as His Majesty in Council may declare in that behalf in pursuance of the provisions of the Termination of the Present War (Definition) Act, 1918, and,

(2) the date of the termination of war between His Majesty and any particular State shall be the date similarly declared under sub-section (3) of section 1 of the said Act.

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# ACT No. X OF 1919.

*(Received the assent of His Highness the Maharaja on the 17th day of July 1919.)*

## **An Act to amend the Mysore Railways Act, 1894.**

Whereas it is expedient to amend the Mysore Railways Act, 1894; His Highness the Maharaja is pleased to enact as follows:—

1. In section 3, sub-section (1) of the said Act, the words "the Mysore Tramways Act, 1906" shall be substituted for the words "The Indian Tramways Act, 1886." Amendment of section 3, sub-section (1).
2. In section 7, sub-section (1), clause (a), between the word "roads" and the words "ways, passages" the words "lines of railways" shall be inserted. Amendment of section 7, sub-section (1) clause (a).
3. The following shall be substituted for sub-section 2 of section 10:—  
 "A suit shall not lie to recover such compensation, but in the case of dispute the amount thereof shall, on application to the Deputy Commissioner, be determined and paid in accordance, so far as may be, with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Mysore Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation."  
Amendment of section 10, sub-section (2).
4. In section 43, sub-section (3), for "sub-section (1)," the words "sub-section (2)" shall be substituted. Amendment of section 43, sub-section 3.
5. In section 57, sub-section (1), before the word "camels," the word "mules," and before the word "sheep" the word "donkeys" shall be inserted. Amendment of section 57, sub-section, 1
6. Section 65 is repealed. Repeal of section 65.
7. In section 96 and in the marginal heading there-to, for the words "the return half" the words "any half" shall be substituted and the word "return" in the words "the return journey" shall be omitted. Amendment of section 96.

Amendment  
of section  
118, sub-  
section 1.

8. In section 118, sub-section (1), after the word "Court" the words "or of any local authority or person having by law power to attach or distrain property or otherwise cause property to be taken in execution" shall be added.

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ACT No. XII OF 1919.

*(Received the assent of His Highness the Maharaja  
on the 8th day of November 1919.)*

**An Act further to amend the Mysore Legal Practitioners  
Act, 1884.**

Whereas it is expedient further to amend the Mysore Legal Practitioners Act, 1884 ; His Highness the Maharaja is pleased to enact as follows :—

1. For section 6, the following new section shall be substituted :— Amendment  
of section 6

“6. A Pleader shall be entitled to appear, plead and act in all Civil and Criminal Courts for which he may be enrolled, other than the High Court.” Pleaders.

2. For sections 7 and 8 the following new section shall be substituted. Amendment  
of sections 7  
and 8.

“7. Subject to the provision of section 6, a Pleader shall be enrolled for practice in the Civil Courts of a single District only, as defined by the Code of Civil Procedure, 1911, and in all Criminal Courts : Courts in  
which Plead-  
ers may  
practice.

Provided that a Pleader now holding a certificate of the second grade, or to whom a certificate of the second grade may hereafter be granted shall be enrolled for practice only in the Courts of Munsiffs and Magistrates.”

3. Section 9 shall be repealed. Repeal of  
section 9.

4. In sub-section (1) of section 10 the words “of the first or second grade” shall be omitted. Amendment  
of section 10.

5. For the third paragraph of section 11, the following shall be substituted :— Amendment  
of section 11.

“The certificate granted to a Pleader under this section shall specify the Courts for which the applicant has been enrolled.”



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